
Susan J. O'Carroll
1411 West Clark Avenue
Burbank, CA 91506

P045-1

Impact BioMar-5 in Section 4.7.4 contains updated information on potential noise impacts on the marine environment and mitigation measures to address such impacts. In addition, Appendices H2 and H3 contain acoustics studies for offshore construction and operation. Appendix H2 analyzes noise impacts on marine mammals.

May 6, 2006

Mr. Dwight E. Sanders
 California State Lands Commission
 Division of Environmental Planning and Management
 100 Howe Avenue, Suite 100-South
 Sacramento, CA 95825

Re: Revised Draft EIR for the Cabrillo Port LNG Deepwater Port

Dear Mr. Sanders:

Thank you for sending me a copy of the Revised Draft EIR for this facility. As described in the DEIR, the LNG facility consists of three main components: the Floating Storage and Regasification Unit (FSRU) which would be anchored and moored on the ocean floor in Federal Waters 12.01 NM (13.83 miles) off the coast of Ventura and Los Angeles Counties, in waters approximately 2,900 feet deep; offshore and shore crossing pipelines; and on-shore pipelines.

Unfortunately the analysis of the impact of noise on marine mammals is totally inadequate. As noted on Page ES-29 of the DEIR:

P045-1

Thirty-four species of marine mammals, including whales, dolphins, porpoises, and seals and sea lions may occur in the Project area. Six species of cetaceans are listed as endangered, while two pinnipeds and the southern sea otter are listed as threatened.

As shown in Figure 4.7-1 from the DEIR, the FSRU would be located in the vicinity of Gray Whale Migration Routes. Given the extremely noisy nature of this facility which would generate aquatic noise levels in excess of the above water equivalent of a jet fly-over at 100-feet (see attached table) and the importance of this area for marine mammals, an accurate and complete analysis of impacts to marine mammals is a necessity. As detailed more fully below, the existing analysis of the impacts of the project on marine mammals:

- Fails to adequately describe the existing noise environment.

- Fails to adequately characterize the project's noise generation - The EIR should provide 5 dBA noise contours showing noise at the project site and how noise attenuates, up to the distance at which the project's contribution to background noise levels is no longer noticeable (i.e. contributes less than 3dBA above existing levels). P045-2
- Fails to adequately analyze the impact of the project's noise in combination with existing noise levels - The EIR should provide 5 dBA noise contours showing existing-plus-project noise from the project site, up to the distance at which the project's contribution to background noise levels is no longer noticeable (i.e. contributes less than 3dBA above existing levels).
- Fails to recognize that the project will result in both a Level A and Level B take of marine mammals. P045-3
- Fails to provide mitigation which would reduce these impacts to less than significant.
- Concludes that noise impacts on marine mammals can be mitigated to a level which is less than significant, when substantial evidence in the DEIR demonstrates that impacts will in fact remain significant. P045-4

The Marine Mammal Protection Act (MMPA)

Under the MMPA, the term "take" means to "harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill any marine mammal." Under the MMPA "(t)here shall be a moratorium on the taking and importation of marine mammals and marine mammal products, commencing on the effective date of this Act, during which time no permit may be issued for the taking of any marine mammal and no marine mammal or marine mammal product may be imported into the United States except" under specific circumstances. In 1994, Congress amended the MMPA to differentiate between two types of harassment or "take." Under the MMPA, the term "harassment" means any act of pursuit, torment, or annoyance which:

- (i) has the potential to injure a marine mammal or marine mammal stock in the wild. This Level A harassment or take; or
- (ii) has the potential to disturb marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering. This is Level B harassment or take.

P045-2

Section 8 of Appendix H3 presents information on underwater-radiated noise and the distances at which the noise from the FSRU becomes equal to the background noise level.

P045-3

Impact BioMar-5 in Section 4.7.4 analyzes impacts and identifies the areas where such impacts could occur, including the potential for Level A and B takes of marine mammals.

P045-4

BioMar-5 in Section 4.7.4 identifies mitigation measures that would reduce noise impacts on marine mammals and concludes that "Implementation of these mitigation measures would reduce the intensity and duration of anthropogenic noise introduced to the marine environment and would thus reduce impacts on marine mammals, but it is unclear whether impacts would be reduced to a level below significance criteria."

Threshold for a Significant Noise Impact

As noted on Page 4.7-58 of the DEIR, the National Marine Fisheries Services:

- acoustic criterion for Level A take is 180 dB re 1 μ Pa – rms and 160 dB re 1 μ Pa – rms (impulse); and
- acoustic criterion for a Level B take is 120 dB re 1 μ Pa – rms (continuous).

The Existing Noise Environment

As noted on Page 4.7-54 of the DEIR:

The nearby waters of the CINMS are heavily ensonified by anthropogenic noise (noise caused by humans). The natural background noise levels in the undisturbed ocean vary from around 90 dB reference (re) 1 micropascal (μ Pa) – root mean squared (rms) to 110 dB re 1 μ Pa – rms, depending on ambient weather conditions (Entrix 2004). This undisturbed background noise level will be raised by other marine activity such as shipping movements in the nearby shipping channel, so that at the FSRU location the lower level of background noise would generally be closer to 108 dB re 1 μ Pa – rms.

Mitigation Measure MMBioMar-5b provides for an Acoustic Monitoring Plan which includes the following actions:

- Obtain seasonal conductivity (density/salinity), temperature, and depth measurements at the Project site before construction begins. Concurrently, measure levels of natural ambient sound in a variety of sea states, provided that sea conditions are not so severe that they compromise the ability to obtain good data (sound pressure level recordings). Also, measure sounds of various vessels as they pass the Project site in the nearby shipping lane (sound pressure level recordings four times a year for one to two years).
- Take empirical measurements of operational sound at various depths, distances and directions from the Project site (sound pressure level recordings). Take

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measurements during cold and warm water influxes. Measurements will be taken of the LNG carrier and tugs berthing and leaving FSRU; the LNG carrier attendant vessels; all operational modes of FSRU, support vessels, and helicopters during normal operations; and pipeline noise.

This baseline data needs to be collected as part of the noise analysis for the project; it should not be left till after the project is in place and it is too late to do anything about project noise impacts. As with any EIR noise impact analysis, noise readings to establish the baseline in the project's area of effect need to be taken as part of establishing the environmental setting. The EIR needs to provide a map of the existing noise environment showing noise contours lines for the area of project effect. Failure to do so is a fatal flaw of this EIR.

P045-5

The Proposed Project

Both project construction and operation have the potential to result in a take of marine mammals.

Construction

According to page 4.7-59 of the DEIR:

Average peak pressure generated from vessels described in a noise analysis of construction activities for the proposed Project range from 156 to 181 dB (Entrix, Inc. 2004). Dynamic-positioning pipelaying vessels may be heard underwater 15 miles from a construction site (Woodhouse and Howorth 1992); however the intensity of the sound would be greatly reduced at these distances. The sound level of such a vessel is 172 dB (Entrix, Inc. 2004).

The DEIR thus provides evidence that construction noise impacts of the project alone would exceed both the Level A and the Level B take threshold. However, the DEIR fails to identify an impact due to construction noise. No mitigation is provided which would insure that project construction noise would be reduce to below 120 dBA. Mitigation Measure BioMar-9b only requires that construction during Gray Whale Migration be avoided. However, this does nothing to reduce the construction noise impacts on the other thirty-three species of marine mammals present in the project vicinity. Construction noise impacts to marine mammals remain significant and unmitigated.

P045-6

P045-5

Section 3.2 in Appendix H2 has information on baseline noise levels in the ocean. Section 4.1.1 in Appendix H2 shows how underwater sound reduction over distance is calculated for the EIS/EIR's analyses.

P045-6

See the response to Comment P045-4.

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Furthermore, the DEIR analyzes the noise impacts of project construction as if those impacts occurred in a completely silent environment. The analysis fails to add project generated noise to the existing background noise levels in order to assess the true noise level that would occur in the area during project construction. The DEIR thus understates the potential take effect of project construction noise.

P045-7

Operation

According to Page 4.7-43 of the DEIR, the Floating Storage and Regasification Unit (FSRU):

. . . is stationary and would produce a relatively constant underwater noise signal. Additionally, the slow approach of LNG carriers to the FSRU would likely produce a similar steady signal that would increase as they approach the FSRU. It is anticipated that noise generated from the FSRU during operations would attenuate to approximately 120 dB within 0.5 NM (0.6 miles or 1 km) of the FSRU and to 108 dB within 1.6 NM (1.9 miles or 3km) of the FSRU. (Page 4.7-43).

P045-8

This description tells us is that a Level B take would occur within 0.5 NM or 1 km of the FSRU, based on project noise alone. This means that a Level B take would occur over a 3.14 square NM (or a 6.28 square kilometer) area during normal project operations, unless marine mammals avoided this area. The DEIR fails to identify the size of the area that marine mammals would need to avoid in order to keep from suffering a Level B take, and thus the impact of the project on marine mammal habitat. In addition, the analysis fails to add project-generated noise to the existing noise environment, thus this impact would be greater than described in the DEIR.

The DEIR also provides evidence that a Level A take may occur during normal stationary FSRU operations. The DEIR on page 4.7-61 states:

The FSRU would generate less noise when it is stationary than when the thrusters are in use. Operational octave band levels have been estimated at 145 to 179 dB. Total broadband level (22 hertz [Hz] to 11.3 kilohertz [kHz]) was estimated at 182 dB. This level would fall to 122 dB at 0.5 NM (0.6 miles or 1 km) from the source and would equal background levels at 3.8 NM (4 miles or 7 km) on a windy day (C.J. Engineering Consultants 2004).

P045-7

The addition of background noise to Project noise levels would add very little to Project-generated construction noise. Only at a distance from the source where attenuation approaches background noise levels would the addition of background noise add anything to the source level. Therefore, noise levels were not underestimated.

P045-8

Impact BioMar-5 in Section 4.7.4 has been revised to include estimated areas where potential Level B and Level A takes could occur during operation, under multiple operating scenarios.

Estimated background noise levels are reported in Section 4.7.4 and are used for comparison purposes. See the response to Comment P045-7.

The DEIR fails to acknowledge the potential for a Level A take during normal operations, and appears to rely of marine mammals avoiding the FRSU as the basis of its conclusions that impacts would be less than significant.

P045-9

This is particularly troubling, given as explained on page 4.7-60 state:

The main noise associated with LNG carrier docking would be associated with tugs and the FSRU thruster. The total level for the combination is 192 dB broadband. Similarly, crew and supply vessels would be loudest when underway, but such sounds would be transitory and short-lived. Supply vessels would generate a maximum of 181 dB, reducing to 174 dB at 1 m from the source.

As detail on pages 4.7-61&62 of the DEIR:

The FSRU would generate the most noise when its thrusters are being used and tugs are nudging the LNG carrier into position. The broadband source level when this occurs was estimated at 192.6 dB as shown in Table 4.7-13. This would only occur for about two hours each week (C.J. Consultants 2004). These estimates were made using engine manufacturers' noise specifications and factor in the structural elements of the FSRU design.

Table 4.7-13. Total Maximum Combined Noise Generated from FSRU, LNG Carrier, and Tug Boats at FSRU					
Frequency	31.5	250	1000	4000	Broad band
Total dB at frequency	185 dB	180.7 dB	171.6 dB	160.8 dB	192.6 dB

Source: C.J. Engineering Consultants 2004.

The broadband level will fall to 122 dB 0.5 NM (0.6 miles or 1 km) from the source and to ambient levels at a range of 3.8 NM (4.4 miles or 7 km) (C.J. Engineering Consultants 2004).

It is anticipated that noise generated from the FSRU during operations would attenuate to approximately 118 dB re 1µPa – rms within 0.9 NM (1 mile or 1.7 km) of the FSRU and to 108 dB re 1µPa – rms within 1.6 NM (1.9 miles or 3km) of the FSRU. Additionally, although noise levels in the immediate vicinity of the FSRU during operation would be greater than the continuous noise level of 120 dB re 1µPa – rms for Level B takes, with attenuation to 118 dB re 1µPa –

P045-9

Table 4.7-13 identifies the potential areas of Level A take of marine mammals for seven different operating scenarios. Section 4.7.4 states that Level A takes could occur during Project operations. Implementation of mitigation measures identified under Impact BioMar-5 would reduce impacts on marine mammals and concludes that it is a CEQA Class I impact (NEPA major adverse, long-term) because it is unclear whether impacts would be reduced to a level below significance criteria.

P045-9 Continued

rms within 0.9 NM (1 mile or 1.7 km), it is unlikely that any marine mammal would be impacted. (Page 4.7-62)

P045-9
Continued

P045-10

Appendix H3 and Section 4.7.4 address noise levels when thrusters are in operation.

Thruster activity thus equates to a Level A take in proximity to the facility and enlarges the Level B take area to 5.65 square NMs or 10.68 square kilometers. The DEIR fails to recognize the significant impact on marine mammal habitat during thruster operations.

P045-10

P045-11

See the response to Comment P045-9.

Given that it is not possible to notify marine mammals about which two hours each week that FRSU thrusters will be used, generating up to 192.6 dB, and the fact that Mitigation Measure MMBioMar-5a-Noise Reduction Design only requires noise reduction "to the maximum extent feasible" the DEIR's failure to identify the potential for either a Level A take or the DEIRs failure to identify Level A and B takes as unmitigated are fatal flaws of the DEIR.

P045-11

P045-12

See the response to Comment P045-7.

P045-13

Section 4.7 and Appendix I have been updated to reflect the status of the ongoing Section 7 ESA consultation for threatened and endangered marine species.

In addition, as previously noted the DEIR analyzes the noise impacts of project construction as if those impacts occurred in a completely silent environment. The analysis fails to add project generated noise to the existing background noise levels in order to assess the true noise level that would occur in the area during project operation (both normal and with thrusters). The DEIR thus understates the potential take effect of project operational noise.

P045-12

Section 7 Consultation

Given that the project has the potential to reduce the number or restrict the range of both rare or endangered marine and terrestrial plants and animals the Biological Assessment and Section 7 consultation required under the Endangered Species Act (ESA) and any consultation required under the Marine Mammal Protection Act should have been completed prior to issuance of the DEIR and the results should be included in an appendix to the DEIR. It is vitally important that the public and responsible agencies such as the California Department of Fish and Game (CDFG) be given the opportunity to comment on the Biological Assessment and Biological Opinion, both of which will constitute significant new information once released. Omitting them from the DEIR deprives the public and responsible agencies of any important opportunity to participate in the protection of some of our most precious biological resources. The DEIR/DEIS should be recirculated once the Biological Assessment and Biological Opinions for the various affected sensitive species are completed and once the analysis of impacts to marine mammals has been properly conducted.

P045-13

Additional Issues

- It is a mistake to temporarily separate the EIR and EIS processes for the project, particularly given changes in the project. This revised document should be a revised DEIR/DEIS, not simply a revised DEIR. Separation of the two processes will complicate agency and public review and the ultimate processing of the documents. P045-14
- The DEIR indicates that decommissioning of the facility “would be analyzed in a subsequent environmental review at the end of the Project life.” This is unacceptable. CEQA requires all phases of a project to be analyzed. If decommissioning would pose particular problems or would result in additional significant unmitigated impacts, it is important that this phase be analyzed prior to the decision to approve a project. P045-15
- The EIR indicates that there are two other LNG facilities currently under consideration: Crystal Energy LLC has submitted an application for a Clearwater Port LNG facility using an existing oil and gas platform, Platform Grace; and, there is a proposal for a 27-acre onshore LNG receiving terminal at the Port of Long Beach. Different agencies making project-specific approval determinations regarding the siting of LNG facilities would appear to be inappropriate. What is needed is a long-term LNG provision plan and consideration of the various terminal proposals in a single EIR/EIS, as they are really alternatives. A disjointed, project-by-project approach to LNG facility siting is likely to result in unnecessary environmental degradation. P045-16

A Statement of Overriding Considerations Can Not Be Justified

The Revised Draft EIR now acknowledges the following significant unmitigatable impacts of the project:

- Impact PS-2. A high-energy collision with the FSRU or an LNG carrier and another vessel or an intentional attack could cause a rupture of the Moss tanks holding LNG, leading to a release of an unignited flammable vapor cloud that could extend beyond the 1,640-foot (500 m) radius safety zone around the FSRU, or could impact members of the boating public in the vicinity of an LNG carrier.
- Impact PS-3. Fishing gear could become hung up on the pipeline and potentially damage one or both of the subsea pipelines. Similar damage may occur due to a seismic event or subsea landslide.

P045-14

A Revised Draft EIR was recirculated in March 2006 under the CEQA for an additional public review period of 60 days. Sections 1.4 and 1.5.3.2 contain additional information on this topic. USCG and MARAD determined that recirculation of the Draft EIS was not necessary to meet the requirements of NEPA and other applicable Federal regulations. Nonetheless, the USCG and MARAD have considered all comments received on the Revised Draft EIR and have cooperated with the CSLC in preparation of the joint Final EIS/EIR.

P045-15

The projected FSRU in-service life is a maximum of 40 years. Environmental conditions and specific impacts 40 years from now are not reasonably foreseeable. As noted in Section 2.8, supplemental NEPA/CEQA documentation, which would take into consideration the environmental conditions at the time, would be required prior to the decommissioning of the FSRU. Also as noted in Section 2.8, as part of the license approval, the DWPA requires each applicant to furnish a bond or demonstrate other proof that if the project is abandoned then sufficient monies would be available for either completion or demolition of the project.

P045-16

This EIS/EIR does not address how many LNG facilities will be built because the information necessary is not presently available, and the decision concerning how many facilities are needed ultimately is not before the lead agencies. Nevertheless, Section 4.20.1 contains information on the potential cumulative impacts of the proposed Woodside, Clearwater Port, and Port of Long Beach LNG projects for which applications have been submitted to the appropriate regulatory agencies.

- Impact PS-4. The potential exists for accidental or intentional damage to the onshore pipelines or valves carrying odorized natural gas. Damage may occur due to human error, equipment failure, natural phenomena (earthquake, landslide, etc.). This would result in the release of an odorized natural gas cloud at concentrations that are likely to be in the flammable range.
- Impact PS-5. In the event of an accident, there is a greater likelihood of injury, fatality, and property damage near Center Road Pipeline MP 4.1, an HCA.
- Impact AES-3. The FSRU would change the visual character of the ocean view for recreational boaters.
- Impact AGR-2. Expansion of the Center Road Valve Station in Ventura County would require conversion of approximately 0.1 acre (0.04 ha) of agricultural land to non-agricultural uses.
- Impact AIR-1. Project construction activities in Ventura and Los Angeles Counties would generate emissions that exceed quantitative thresholds for criteria pollutants in designated air quality nonattainment areas.
- Impact AIR-2. Onshore Project construction activities would generate particulate emissions that could cause or contribute to existing or projected violations of ambient air quality standards.
- Impact AIR-3. An LNG spill from the FSRU or a pipeline rupture would result in a natural gas release and/or a fire that could cause temporary increases in ambient air concentrations of criteria pollutants in excess of air quality standards, expose sensitive receptors and the general public to substantial concentrations of toxic air contaminants, and/or create objectionable odors.
- Impact AIR-5. Emissions of NO_x and ROC generated from LNG carriers, tugboats, and the crew/supply boat operating in California Coastal Waters could contribute to ambient ozone impacts in the areas located downwind of the Project.
- Impact BioMar-6. An accidental release of a natural gas, fuel, or oil could cause morbidity or mortality of marine biota, including fish, invertebrates, sea birds, and sea turtles, through direct contact or ingestion of the material.

- Impact BioMar-8. A release of LNG, natural gas, fuel, or oil could cause injury or mortality of marine mammals through direct contact or ingestion of the material.
- Impact NOI-2. Recreational boaters and fishers at certain distances from the facility could hear noise generated by FSRU operations over the long-term.
- Impact NOI-3. LNG carriers, crew boats and supply vessels, or helicopters could temporarily increase noise levels for sensitive receptors, such as recreational boaters and fishers.
- Impact NOI-4. HDB at the shore crossing and HDD or other drilling techniques at onshore waterways and intersection crossings could temporarily increase noise levels for sensitive receptors. Noise levels could exceed local noise ordinances or permit conditions.
- Impact NOI-5. HDB, HDD, boring, trenching, and other construction activities could temporarily create vibration levels at sensitive receptors.
- Impact NOI-6. Site preparation, pipeline installation, and construction of aboveground facilities could temporarily increase noise levels for sensitive receptors, such as schools and residences. Noise levels may exceed county and/or city noise ordinances or permit conditions during the installation of the onshore pipeline and associated structures.
- Impact REC-3. The presence of the Project would alter the recreational experience of recreational boaters, including visitors on whale-watching trips and other visitors to the Channel Islands National Park.
- Impact TRANS-1. Construction of the Center Road Pipeline or alternate routes could temporarily affect the intersection of SR 118 (Los Angeles Avenue) and Santa Clara Avenue, an intersection that is already at level of service (LOS) E.
- Impact WAT-5b: An accidental release of diesel fuel to marine waters violates Federal and State water quality standards or objectives.

In addition, as detailed above, the project would result in significant unmitigated impacts on marine mammals and on important marine mammal habitat, rendering at least 3.14 square nautical miles a no-marine mammal

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P045-17

Your statement is included in the public record and will be taken into account by decision-makers when they consider the proposed Project.

land. Given the fact that North America has ample nature gas resources, that there are other LNG proposals which may have less significant impacts, the number of significant unmitigated impacts of the project, and the additional significant unmitigated impacts which are not identified in the DEIR such as the impacts to marine mammals and their habitat, approval of the project can not be justified.

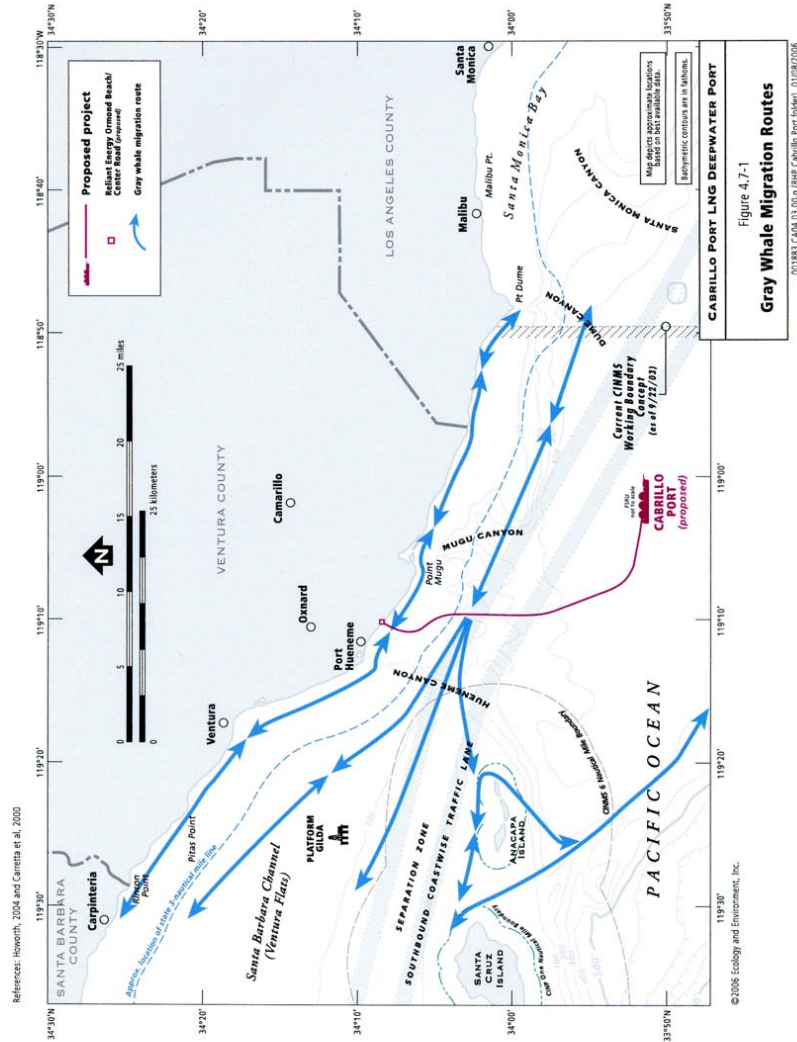
P045-17

Thank you for your consideration. Sincerely,

A handwritten signature in cursive script that reads "Susan O'Carroll".

Susan J. O'Carroll, Ph.D

Terrestrial Environmental Noise Levels		
<i>Common Outdoor Activities</i>	<i>Noise Level (dBA)</i>	<i>Common Indoor Activities</i>
	—110—	Rock Band
Jet Fly-over at 100 feet		
	—100—	Pile Driver at 50 feet
Gas Lawnmower at 3 feet		
	—90—	
		Food Blender at 3 feet
Diesel Truck going 50 mph at 50 feet	—80—	Garbage Disposal at 3 feet
Noisy Urban Area during Daytime		
Gas Lawnmower at 100 feet	—70—	Vacuum Cleaner at 10 feet
Commercial Area		Normal Speech at 3 feet
Heavy Traffic at 300 feet	—60—	
		Large Business Office
Quiet Urban Area during Daytime	—50—	Dishwasher in Next Room
Quiet Urban Area during Nighttime	—40—	Theater, Large Conference Room (background)
Quiet Suburban Area during Nighttime		
	—30—	Library
Quiet Rural Area during Nighttime		Bedroom at Night, Concert Hall (background)
	—20—	
		Broadcast/Recording Studio
	—10—	
Lowest Threshold of Human Hearing	—0—	Lowest Threshold of Human Hearing
SOURCE: California Department of Transportation 1998		



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To view the responses to this letter, go to "Index--Read this First" and select "2006 Letters--Form Letter."

April 19, 2006

Dwight Sanders
State lands commission,
100 Howe Avenue
Suite 100 South
Sacramento California 95825-8202

Re: Stop Cabrillo Port LNG

Dear Mr. Sanders,

Please stop Cabrillo port LNG industrial plant from progressing any further in the permit process. California law prohibits industrial intrusion on highly scenic areas. The last remaining wild areas on the Southern California Coast will be permanently despoiled if this industrial plant is installed. In fact over 10 national parks, national recreation areas, state, city and county parks will be despoiled. This would forever impact the quality of life of the areas residents and negatively impact the millions of visitors who come to hike and enjoy the seashore. In addition, federal and state governments own studies show that this project would:

- result in both short term and long term adverse impacts to the coast and it's residents.
- Increase smog levels (tons of pollutants spewing directly upwind from our houses, beaches and hiking trails.
- contain 14 story high pollution spewing industrial towers with lines of support ships which forever will be our new horizon. This towers will be brightly lit at night being a 24 hour eye sore .
- harbor the possibility of a 14 mile wide explosive flash fire due to an accident of terrorist attack.
- be visible from all elevations in malibu from downtown Malibu all the way to Port Hueneme.
- require a "security zone" of 2.3 miles around it. (to protect from terrorism, accidents etc) which is in the same shipping channel where 10,000. container ships and oil tankers use annually.

There are many more negative impacts than the above "official" ones disclosed by the federal and state study.

PLEASE do not allow this to go forward. We, the citizens of Southern California will fight this project until it is derailed. Our money and time can be spent on projects that truly will improve the quality of life in Southern California rather than just provide an opportunity for foreign Companies to sell us gas that they and we do not need.

Sincerely,

Allen O'Connor
P.O. Box 6253
Malibu, CA 90264

From: Oliverloly@aol.com
Sent: Wednesday, April 19, 2006 7:43 PM
To: BHPRevisedDEIR@slc.ca.gov
Subject: Cabrillo Port LNG terminal

This is a bad idea. Another bad idea for the environment, wildlife and the state of our planet. Why don't people understand this? Liquefied Natural Gas causes water and air pollution, impacts wildlife and the environment and I don't mean in a good way. Any accident, (and we know they happen), or God forbid, the very real possibility of a terrorist attack would cause death and destruction and environmental repercussions for generations. There are better alternatives.

Hasn't there been enough raping of our environment for one administration?
 Please do not do this! It's the ocean for God's sake.

Sincerely,

Lyla Oliver

V022-1

Sections 4.6.4 and 4.18.4 discuss the Project's potential impacts on air and water quality. Sections 4.7.4 and 4.8.4 discuss the Project's potential effects on the marine and terrestrial environments.

V022-2

Section 4.2 and Appendix C address public safety impacts. Table 4.2-2 and Sections 4.2.6.1 and 4.2.7.6 contain information on the threat of terrorist attacks.

V022-1

V022-2

V022-3

V022-3

Chapter 3 discusses Project alternatives considered.

V022-4

V022-4

Your statement is included in the public record and will be taken into account by decision-makers when they consider the proposed Project.

Comment Form/Formulario Para Comentarios

Cabrillo Port LNG Deepwater Port—Revised Draft EIR
Puerto de Aguas Profundas de LNG en el Puerto de Cabrillo—Borrador Revisado del EIR

To receive a copy of the Final EIS/EIR, you must provide your name and address.
 Para recibir una copia del EIS/EIR Final, por favor proporcionar su nombre y dirección.

Name (Nombre): Max A. Ordóñez
 Organization/Agency (Organización/Agencia): Board Member California Highways
 Street Address (Calle): 15541 Acker Valley Rd Chukarot Com
 City (Ciudad): Whittier
 State (Estado): CA Zip Code (Código Postal): 90604
 email address (dirección de correo electrónico): maxojmscp.com

**Please provide written comments on the reverse
 and drop this form into the comment box.**

**Proporcione por favor los comentarios escrito en el revés y colóque esta forma
 en la caja del comentario.**

**You may also address any written comments
 to the attention of:**

Dwight E. Sanders
 California State Lands Commission
 Division of Environmental Planning and
 Management
 100 Howe Avenue, Suite 100-South
 Sacramento, CA 95825
Include the State Clearinghouse number:
2004021107

**Comments may also be submitted via email
 to: BHPRevisedDEIR@slc.ca.gov**

**Usted puede dirigir también cualquier
 comentario escrito a la atención de:**

Dwight E. Sanders
 California State Lands Commission
 Division of Environmental Planning and
 Management
 100 Howe Avenue, Suite 100-South
 Sacramento, CA 95825
Incluir el número de State Clearinghouse:
2004021107

**Los comentarios también se pueden enviar
 por correo electrónico a:**
BHPRevisedDEIR@slc.ca.gov

**All comments must be received
by 5 p.m. Pacific Time, May 12, 2006**

**Todos los comentarios debe ser recibido
por 5 de la tarde, hora Pacífico, el 12 de mayo de 2006**

V217-1

Your statement is included in the public record and will be taken into account by decision-makers when they consider the proposed Project.

Comments/Comentarios (Use additional sheets if necessary/Puede utilizar hojas adicionales si es necesario):

On behalf of small business
in California, I am in
support of this project for the
following:

- New & Modern Technology
- Creates Jobs
- Supports CA Economy
- Stabilizes Supply

V217-1

Small business cannot afford another
energy crisis.

Thank you

No action will be taken until the environmental review process is completed.

No se tomará ninguna acción hasta que el proceso de revisión ambiental se haya terminado.

A Note from **P431**
Mary J. Ortega

5-8-06

Dwight E. Sanders

Ref # 2004021107

Dear Sir,

*I cannot object
 more strongly to the
 Calhills port project
 by BHP. It makes no
 sense whatsoever to
 place such a huge
 industrial project off of
 our beautiful Orford
 coast.*

Sincerely,

Mary J. Ortega



A proud supporter of World Wildlife Fund

P431-1

Your statement is included in the public record and will be taken into account by decision-makers when they consider the proposed Project.

P431-2

Section 4.4 contains information on the visual aspects of the Project, potential impacts, and measures to address such impacts. See Impact AES-1 in Section 4.4.4, which states, "[t]he FSRU would appear similar in shape to commercial vessels that are frequently seen in the Project area." Table 4.3-1 contains information on the numbers and representative sizes of vessels that are commonly found in the proposed Project area, and Appendix F contains additional simulations.

P431-1

P431-2

P254

To view the responses to this letter, go to "Index--Read this First" and select "2006 Letters--Form Letter."

April 19, 2006

Dwight Sanders
State lands commission,
100 Howe Avenue
Suite 100 South
Sacramento California 95825-8202

Re: Stop Cabrillo Port LNG

Dear Mr. Sanders,

Please stop Cabrillo port LNG industrial plant from progressing any further in the permit process. California law prohibits industrial intrusion on highly scenic areas. The last remaining wild areas on the Southern California Coast will be permanently despoiled if this industrial plant is installed. In fact over 10 national parks, national recreation areas, state, city and county parks will be despoiled. This would forever impact the quality of life of the areas residents and negatively impact the millions of visitors who come to hike and enjoy the seashore. In addition, federal and state governments own studies show that this project would:

- result in both short term and long term adverse impacts to the coast and it's residents.
- Increase smog levels (tons of pollutants spewing directly upwind from our houses, beaches and hiking trails.
- contain 14 story high pollution spewing industrial towers with lines of support ships which forever will be our new horizon. This towers will be brightly lit at night being a 24 hour eye sore .
- harbor the possibility of a 14 mile wide explosive flash fire due to an accident of terrorist attack.
- be visible from all elevations in malibu from downtown Malibu all the way to Port Hueneme.
- require a "security zone" of 2.3 miles around it. (to protect from terrorism, accidents etc) which is in the same shipping channel where 10,000. container ships and oil tankers use annually.

There are many more negative impacts than the above "official" ones disclosed by the federal and state study.

PLEASE do not allow this to go forward. We, the citizens of Southern California will fight this project until it is derailed. Our money and time can be spent on projects that truly will improve the quality of life in Southern California rather than just provide an opportunity for foreign Companies to sell us gas that they and we do not need.

Sincerely,

Skyler Penk
28840 Boniface Dr.
Malibu CA 90265

League of Women Voters

of Ventura County

P.O. Box 787
Ventura, CA 93002

May 12, 2006

Dwight E. Sanders
California State Lands Commission
Division of Environmental Planning and Management
100 Howe Avenue, Suite 100 South
Sacramento, CA 95825

State Clearing House Number: 2004021107
CSLC EIR No. 727

COMMENTS ON AIR QUALITY

The League of Women Voters Ventura County (LWVVC) has long-established positions on air quality standards to protect public health and welfare, including effective enforcement and implementation procedures. Our reading of the DEIR leaves us concerned about the manner in which air quality issues are presented; basically the US EPA determined that air quality regulations are not required to be observed where the floating port Cabrillo Port will be sited. See p. 4.6-21, Table 4.6-15, in box "LOCAL", and ES-3, lines 23 to 28. The EPA seems to treat Cabrillo Port, the FSRU (floating storage and regasification, unit), as if it were on one of the Channel Islands, and therefore not subject to air regulations. (Table 4.6-20). Also see footnote 'b' of the Executive Summary {Table ES-2 on page ES-21} stating the Clean Air Act, section 112 (r), Risk Management Program 40 CFR Part 68 is not applicable.

Although natural gas is a cleaner energy source than coal or oil, it still releases CO₂ into the atmosphere when burned, contributing to global warming. Further, according to the EPA, when natural gas is released unburned into the atmosphere, it traps 21 times more heat per molecule than does carbon dioxide. We are concerned that methane will be lost to the atmosphere in the processing of LNG, adding unnecessarily to global warming — for example when the very large amount of "treated exhaust gas" is vented from the Submerged Combustion Vaporizer, as seen in Figure 2.2-5, page 2-25, during regasification. See also section 4.6.1.4. The "treatment" of the exhaust should be described in the EIR.

Beachgoers know that ocean winds blow toward the land daily, often with some force. We know the LNG will decrease Ventura County's air quality because the DEIR

G014-1

The Project has been modified since issuance of the March 2006 Revised Draft EIR. See Section 1.4.2 for a summary of Project changes. The following Project changes would reduce emissions of nitrogen oxide and other air pollutants:

- Reduction in the number of LNG carriers and change in crew vessel trips;
- Use of natural gas to power LNG carriers in California Coastal Waters;
- Diesel-fueled support vessels with emission controls; and
- Use of specific engine standards for onshore construction equipment.

The Applicant has committed to implement the following additional measure to reduce air emissions:

- Repowering of existing non-Project vessels with cleaner-burning engines.

These changes required revisions to air pollutant emission estimates and related air quality analyses.

Section 4.6.1.3 contains revised information on Project emissions and proposed control measures. Section 4.6.4 contains revised information on Project impacts and mitigation measures. These revisions address the concurrent emission of ozone precursors from the FSRU and Project vessels.

G014-1

G014-2

During the normal processing of LNG, only a very small amount of uncombusted methane would be contained in the treated exhaust gas from the SCVs and the greenhouse gas emissions would be negligible. Sections 4.6.1.4, 4.6.2, and 4.20.3.6 contain revised information on greenhouse gas emissions and recent California legislation regarding emissions of greenhouse gases.

G014-2

G014-3

The Project has been modified since issuance of the March 2006 Revised Draft EIR. See Section 1.4.2 for a summary of Project changes. Section 4.6.1.3 contains revised information on Project emissions and proposed control measures. Section 4.6.4 discusses the health effects attributed to air pollutants and includes revised impacts and mitigation measures.

G014-3

Section 4.1.8.5 contains information on meteorology and climate in the Project area, including average wind speed and direction. As discussed in Impact AIR-8 in Section 4.6.4, an ambient air impacts analysis was conducted using the Offshore and Coastal Dispersion Model to evaluate potential impacts on ambient air concentrations of pollutants at downwind locations in the Pacific Ocean and along

the coast of California (see Appendix G7 for a summary of the analysis). As stated, "air quality analyses of criteria pollutants emitted from FSRU equipment and Project vessels indicates that the projected increases in the ambient concentrations of criteria pollutants would neither violate any applicable air quality standards nor contribute substantially to existing or projected air quality violations."

indicates that various LNG processes, such as burning fuel for electricity, lighting, water treatment, etc. on the FSRU, are additional sources of air pollution. There will also be pollution resulting from the construction of onshore pipelines. There will be tanker ships unloading LNG, and the Coast Guard ships, tugs and other vessels involved in this process will continue to play a significant role on central south coast air pollution, even though BHP Billiton announced on April 17, 2006, hours before the public hearing in Malibu, that they will reduce pollution by using new tugboats with cleaner burning engines (Ventura County Star, 4/19/06). The issue of clean air is a current problem that we cannot put off until future years. Polluted air and global warming must be dealt with today.

COMMENTS ON SAFETY

The LWVVC reviewed the two volumes of the DEIR of March 2006 with special attention to the possible danger to the people of Ventura County and Los Angeles County. The danger posed by terrorist events continues to be a concern. We also are concerned about management of the increased traffic in our waters. The increase in marine traffic is given a Class II impact rating in the EIR. We ask that increased marine traffic receive more mitigation. (See Vol. II, page 6-13, and Vol. I, pages 4.2-23 and 24).

The DEIR clearly states the US Coast Guard alone is responsible for the security of LNG carriers to the extent that USCG resources allow. The statement, however, does not clarify the duties of the Coast Guard, but rather is ambiguous. It is further stated that Captain of the Port of Los Angeles/Long Beach (we assume he is a Coast Guard Officer) would take a major role (line 36, p. 4.2-24). LNG vessels would be escorted by USCG patrol craft; and as local conditions warrant, the USCG would coordinate with federal, state and local transportation, law enforcement and/or emergency management agencies to reduce or minimize risks of activities. The DEIR statements are imprecise and need to be clarified in the EIR.

The EIR does not anticipate using state or local law enforcement (p. 4.2-24). We wonder if the counties and local entities are clear about their responsibilities should an accident occur. Have they been consulted?

We are disappointed that the results of the Scandia research, ordered by California State Lands Commission, were only partially available to the public. A number of pages and lines were blacked out in the EIR. We understand the restrictions of the Homeland Security Act, but the fact remains, citizens cannot evaluate the Scandia report without transparency of information. Transparency of government is a LWV position as well as having citizens participate in planning and decision making processes, especially when hazardous material management is concerned.

ORMOND BEACH

For several decades LWVVC has actively supported the protection of Ormond Beach and its remaining wetlands because such environments are already gone from most of the California coast. The importance of wetlands was clearly illustrated to the world after the hurricanes across the Gulf Coast area last fall. Not only do wetlands serve birds, plants,

G014-3
Continued

G014-3 Continued

G014-4

Sections 4.6.1.4 and 4.6.2 contain information on Project emissions of greenhouse gases and recent California legislation regarding emissions of greenhouse gases.

G014-5

G014-4

Table 4.2-2 and Sections 4.2.6.1 and 4.2.7.6 contain information on the threat of terrorist attacks. Section 4.2.7.6 and the Independent Risk Assessment (Appendix C1) contain information on public safety impacts from various incidents at the FSRU. The analysis indicates that the maximum impact distance of an accident or intentional incident would involve a vapor cloud dispersion extending 6.3 nautical miles (7.3 miles) from the FSRU. The FSRU would be located approximately 12.01 nautical miles (13.83 miles) offshore; therefore, consequences of an accident or intentional incident involving LNG transport by carrier and storage on the FSRU would extend no closer than 5.7 nautical miles (6.5 miles) from the shoreline.

G014-5

G014-6

G014-7

G014-6

Section 4.3.4 discusses the Project's potential impacts on marine traffic and mitigation measures that would be implemented. Section 4.3.1.4 contains information on safety measures, disabled vessels and anchorage, and vessel collision avoidance measures, including authority and responsibilities of the Captain of the Port (a USCG officer) in the event a vessel becomes disabled or an accident occurs within the port. Marine traffic would not increase significantly. Appendix C3-2 contains additional information on marine safety and security requirements.

G014-8

G014-9

G014-7

The Applicant would be required to develop a deepwater port security plan in accordance with 33 CFR 150.15(x) of the Deepwater Ports Final Rule (September 29, 2006), which stipulates that the security plan must include security procedures comparable to those required in 33 CFR 106. Therefore, in accordance with 33 CFR 106.240, an integral part of the plan will be communications procedures that "effectively notify...facility personnel of changes in security conditions at the...facility" (e.g., an unexpected action by an approaching vessel or aircraft) and that also "allow effective and continuous communications between...facility security personnel, vessels interfacing with the...facility, the cognizant [USCG] District Commander, and national and local authorities with security responsibilities." See also Appendix C3-2.

G014-10

G014-8

The Captain of the Port, now designated as the Federal Maritime Security Coordinator, works with the area maritime security committee, which has been in existence since before 9/11. The area maritime security plan is developed in coordination with the area maritime security committee, comprised of Federal, State and local agencies and members of the local maritime industry. The committee enhances the exchange and communication between the USCG, Federal, State and local agencies and the maritime stakeholders.

In accordance with 33 CFR 106.240, an integral part of the plan will be communications procedures that "effectively notify...facility personnel of changes in security conditions at the...facility" (e.g., an unexpected action by an approaching vessel or aircraft) and that also "allow effective and continuous communications between...facility security personnel, vessels interfacing with the...facility, the cognizant [USCG] District Commander, and national and local authorities with security responsibilities." See also Table 4.2.2 in Section 4.2 and Appendix C3-2.

Sections 1.3.1 and 4.2.7.3, Impact PS-1 in Section 4.2.7.6, and Marine Safety and Security Requirements in Appendix C3-2 contain information on operational measures for security and accident release prevention, including requirements for development of formal operational procedures for LNG carriers and the FSRU.

LNG carriers are required by the International Maritime Operations to meet the International Safety Management Code, which addresses responding to emergency situations.

After licensing, the Applicant would be required to prepare a deepwater port (DWP) operations manual that meets all requirements set forth by the USCG. The manual would be required to be extremely detailed and specific, covering every conceivable contingency as well as normal operations. The minimum contents of this manual are detailed in 33 CFR Part 150. The USCG would need to approve the plan before FSRU operations could begin.

G014-9

With the exception of certain sensitive security information in Appendix D, the entire text of the IRA and its supporting documents are included in Appendix C1. As noted in the preface to Appendix D (Collision Analysis) to the IRA, "(t)he complete report is available for review by Federal, State, and local agency staffs and elected

officials with safety and security responsibilities and clearances."

G014-10

As described in Section 2.3.2, the shore crossing would be installed beneath Ormond Beach. Sections 4.8.1 and 4.14.1.2 discuss Ormond Beach wetlands. Section 4.8.4 discusses mitigation measures to minimize impacts on wetlands. The presence of the pipelines under Ormond Beach would not restrict access to the area for recreation or otherwise alter recreation opportunities at Ormond Beach. During construction, the horizontal directional boring activities would be contained within the Reliant Energy property, and the pipeline would be buried underneath the beach. This topic is discussed further in Sections 4.15.4 and 4.2.8.4. Updated information about the restoration efforts at Ormond Beach is included in Section 4.13.2. Figure 4.13-1 has been revised.

other life, but they moderate storm damage and flooding, and speed recovery. The 2006 DEIR correctly classifies Ormond Beach as a high consequence area (HCA). The League urges BHP Billiton, International to reach beyond this category and not locate the shore crossing on Ormond Beach. The delicate balance of this habitat could be severely impacted by the noise, lights, and activities of large machines and their operators, and could drive the birds and other creatures away permanently.

These issues apparently are not addressed in the DEIR. In particular, Vol. I, page 4.8-4, line 9 refers to Section 4.13.1.2 and Vol. II, p. 4.13-2, "Shore Crossing" stating that under the Federal Coastal Zone Management Plan, a separate consistency certification for the proposed Project facilities in the coastal zone would not be required. We do not know the definition of a consistency certification or how deleting this certification will affect the environment of Ormond Beach and its unique, fragile status. We request clarification on this item.

VIEWSHED, NOISE, NIGHT LIGHTING, IMPACT ON OCEAN

The ambiance of the Pacific Ocean and the special environment of the Channel Islands Marine Sanctuary should be protected from the impact of heavy industry in its midst. The aesthetics of ocean views are an essential, beautiful sight for the human soul. It is a fact that animals need undisturbed places where they can forage, reproduce and protect their young. Ormond Beach has its unique bio-diversity and contribution to the shore. Therefore, keeping heavy industry away from these areas is the best decision.

Processing LNG will impact the ocean waters in ways that will be new to the area. Sea water will be used to provide ballast in order to keep the FSRU and LNG tankers stable. Various organisms and sea life will be at risk when drawn into vessels during the ballast intake, and again when ballast is discharged. In addition, exotic species could be introduced to southern California waters on the first discharge of the FSRU ballast. These risks need further discussion.

Thank you for your consideration of these comments.

Sincerely,

Pamela J. Pecarich, President
League of Women Voters Ventura County
P.O. Box 787
Ventura, CA. 93002
ppecar@aol.com

G014-10 Continued

G014-10
Continued

G014-11

The text in Section 4.8 referring to the CZMA discussion in Section 4.13 has been revised in response to the comment.

As discussed in Section 4.13.2.2, under "Coastal Zone Management Act/California Coastal Management Plan," the DWPA requires the Applicant to obtain a consistency determination from the CCC for the proposed Project facilities in the coastal zone under the Federal Coastal Zone Management Act.

G014-12

The FSRU would be located outside of the current boundary of the Channel Islands National Marine Sanctuary (CINMS) and vessels associated with Cabrillo Port operations would not be expected to enter the CINMS. Sections 4.7.1.4, 4.13.2.2, and 4.20.1.5 discuss the potential expansion of the CINMS boundary, which is not proposed at this time. Sections 4.7.4, 4.15.4, 4.16.4, and 4.18.4 describe potential impacts on the marine environment and proposed mitigation measures to reduce those potential impacts.

Project impacts on coastal ecosystems would be limited to the pipeline corridor during construction and operation (see Section 2.1). The shore crossing required for the proposed Project would be installed beneath Ormond Beach. With the proposed mitigation, the potential impacts of construction, operations, or an accident on terrestrial biological resources would be reduced to a level that is below the significance criteria.

G014-13

The Project has been modified since issuance of the March 2006 Revised Draft EIR. See Section 1.4.2 for a summary of Project changes. The previously proposed FSRU generator engine cooling system used seawater as the source of cooling water for the four generator engines. The Applicant now proposes using a closed tempered loop cooling system that circulates water from two of the eight submerged combustion vaporizers (SCVs) through the engine room and back to the SCVs, which reduces the seawater intake volume by about 60 percent. The seawater cooling system would remain in place to serve as a backup system during maintenance of the SCVs or when the inert gas generator is operating. Section 2.2.2.4 contains a description of the proposed uptakes and water uses for the FSRU.

Section 4.7.4 contains information on uptake volumes and potential

impacts of seawater uptake and discharge on marine biota, including ichthyoplankton from intake of seawater and, from thermal discharges of cooling water. The ichthyoplankton impact analysis (Appendix H1) includes both literature results and data from California Cooperative Oceanic Fisheries Investigations (CalCOFI) surveys. CalCOFI surveys have been consistently collected over a period of time and are the best scientific data currently available.

G014-14

LNG carriers would exchange ballast water outside of the U.S. Exclusive Economic Zone (200 NM) and would only take on ballast water when docked at the FSRU, so non-native invasive species would not be introduced. Section 4.7.2 contains information on regulations to prevent the introduction of non-native invasive species.

G014-15

Your statement is included in the public record and will be taken into account by decision-makers when they consider the proposed Project.

Comment Form/Formulario Para Comentarios

Cabrillo Port LNG Deepwater Port—Revised Draft EIR
Puerto de Aguas Profundas de LNG en el Puerto de Cabrillo—Borrador Revisado del EIR

To receive a copy of the Final EIS/EIR, you must provide your name and address.
Para recibir una copia del EIS/EIR Final, por favor proporcionar su nombre y dirección.

Name (Nombre): Nancy Pedersen

Organization/Agency (Organización/Agencia): _____

Street Address (Calle): 514 East Kamala Street

City (Ciudad): Oxnard

State (Estado): CA Zip Code (Código Postal): 93033

email address (dirección de correo electrónico):

oxnardbutterfly@aol.com

**Please provide written comments on the reverse
and drop this form into the comment box.**

**Proporcione por favor los comentarios escrito en el revés y colóque esta forma
en la caja del comentario.**

**You may also address any written comments
to the attention of:**

Dwight E. Sanders
California State Lands Commission
Division of Environmental Planning and
Management
100 Howe Avenue, Suite 100-South
Sacramento, CA 95825
Include the State Clearinghouse number:
2004021107

**Comments may also be submitted via email
to: BHPRevisedDEIR@slc.ca.gov**

**Usted puede dirigir también cualquier
comentario escrito a la atención de:**

Dwight E. Sanders
California State Lands Commission
Division of Environmental Planning and
Management
100 Howe Avenue, Suite 100-South
Sacramento, CA 95825
Incluir el número de State Clearinghouse:
2004021107

**Los comentarios también se pueden enviar
por correo electrónico a:
BHPRevisedDEIR@slc.ca.gov**

Nancy Pedersen, 514 East Kamala St, Oxnard
State Clearing house number: 2004021107
BHP Billiton Cabrillo Port

Section 4.16 Socioeconomics Table 4.16-8 & 4.16-9

"Non-local pipeline construction workers typically reside at RV and tent camping parks during construction." Per 4.16.1.2, "On shore Projected Workforce:.....about 368 persons."

4.16-9 Rincon Parkway--this is listed as 127 spaces with electric hookups--in fact, this is a narrow strip of asphalt with no hook ups.

4.16-8 Oxnard/Ventura--476 RV/tent sites

McGrath (Oxnard) has 174 spaces with no electric hook ups, fire pits available
 Evergreen RV Park (Oxnard Blvd/Vineyard) has 41 spaces, must move out for 3 days after a 3 month stay. **(Oxnard ordinance forbids parking RVs on residential streets).**

Avenue Trailer Town in Ventura has 70 spaces, rent to owner occupied RV's only and have some long term spaces with a current waiting list for the spaces.

This short list covers 412 of the listed 476 RV/tent spaces. Where is BHP going to house their workers? Local campgrounds are day use only, or have no electric hook ups or are full with a waiting list to get in.

Section 4.16-2 Offshore Projected Workforce

FSRU towed to mooring location--30 person crew--rotated every 7 days, transferred to and from FSRU by a supply vessel from Port Hueneme. **Is the air pollution created by this "supply vessel" included in the pollution created by this project? How will it be mitigated? We have been told (no confirmation so far) that helicopters will be used to transport workers as is done to the oil platforms. How will noise pollution be mitigated?**

4.16.1.2 Onshore--

Oxnard is extremely densely populated--6,981.9 per square mile versus Camarillo at 3,015.3 people per square mile. Non-local workers may also bring family members at an estimated 0.8 family members per worker. **How did BHP reach this number? With Oxnard's densely populated neighborhoods, there are few low cost housing options so garages and even garden sheds are used as housing. With the unavailability of tent or RV sites, how will BHP keep their workers from making a tight housing market even worse? Will they pay their workers a living wage so they can afford to live in decent housing in Oxnard or Ventura? How will BHP ensure their workers do not negatively impact already over crowded schools? Will they supply health insurance to make sure their workers do not negatively impact the health care system? How**

P315-1

P315-1

As discussed in Section 4.16.1.2, the 200 to 240 workers required for Project construction may already live in the area or seek short-term rentals. Even if 240 workers were to seek temporary accommodations, they would represent less than 3 percent of the 10,450 units identified in Table 4.16-8. Although some accommodations may have stay limits, an adequate number of units would still be available to meet their housing needs.

As discussed in Section 4.16.3, the Project would not induce a substantial increase in the short- or long-term demand for housing in excess of existing and projected capacities or cause the vacancy rate of temporary housing to fall to less than 5 percent. The population during construction would increase by less than 0.05 percent from the current population base in Ventura and Los Angeles Counties.

P315-2

The Project has been modified since issuance of the March 2006 Revised Draft EIR. See Section 1.4.2 for a summary of Project changes. Section 4.6.1.3 and Impact AIR-5 in Section 4.6.4 contain information on regulated air pollutant emissions and an updated analysis of vessel emissions.

P315-2

P315-3

Impact NOI-3 in Section 4.14.4 addresses noise impacts generated by support vessels, including helicopters, during offshore operations.

P315-3

P315-4

As discussed in Section 4.16.3, the Project would not induce a substantial increase in the short- or long-term demand for housing or public services. The population during construction would increase by less than 0.05 percent from the current population base in Ventura and Los Angeles Counties. An analysis of the Applicant's labor policies is beyond the scope of this EIS/EIR.

P315-4

Nancy Pedersen 514 East Kamala St, Oxnard
State Clearing house number: 20004021107

BHP Billiton Cabrillo Port

will BHP ensure their workers do not apply for or receive tax payer paid benefits such as food stamps? Most companies in Ventura County do not expect their workers to live in tents.

Section 4.16-14 Tourism provides 19,100 jobs and \$360 million in wages, \$19.6 million in local tax revenue and \$56.9 million in State tax revenue. **If all available campgrounds (RV and tent) were to be used as permanent worker housing for 9 months or longer, how would this affect the tourism industry in Ventura County?**

Water--4.16-14 it will take 2.5 million gallons of water for hydrostatic testing. **Will Oxnard be able to supply this water?** New housing developments such as River Park, North Shore, Seabridge, West Port, among others, are being built or will be built. The water demands by these housing developments will be enormous. **Water is a limited resource. In light of the many inaccuracies found in such minor sections such as RV and tent sites, I am concerned that BHP's statement that water can be supplied may also be inaccurate.**

P315-4 Continued

P315-5

P315-4
Continued

As discussed in Section 4.16.1.2, the 200 to 240 workers required for Project construction may already live in the area. Even if 240 workers were to seek temporary accommodations, they would represent less than 3 percent of the 10,450 units identified in Table 4.16-8. Although some accommodations may have stay limits, an adequate number of units would still be available to meet their housing needs and still accommodate tourists.

P315-5

P315-6

P315-6

As stated in Section 4.16.1.2 under "Water," the City of Oxnard Water Division indicated that they could supply the water needed for hydrostatic testing of the Center Road Pipeline.



NATURAL RESOURCES DEFENSE COUNCIL

May 12, 2006

Via Facsimile, Email and U.S. Mail

Dwight E. Sanders
 California State Lands Commission
 100 Howe Avenue, Suite 100-South
 Sacramento, CA 92825
 Email: BHPRevisedDEIR@slc.ca.gov.

Re: Comments re Revised DEIR for the Cabrillo Port Liquefied Natural Gas Deepwater Port (State Clearinghouse number: 2004021107)

Dear Mr. Sanders:

We write on behalf of the Natural Resources Defense Council (NRDC) and our over 1.2 million members and activists, tens of thousands of whom reside in Southern California, to strongly urge the California State Lands Commission (CSLC) to correct numerous deficiencies contained in the Revised Draft Environmental Impact Report (Revised DEIR) for the Cabrillo Liquefied Natural Gas (LNG) Deepwater Port (the Project).

We have previously commented on this Project, and while we appreciate some of the changes made in the Revised DEIR in response to our comments, we remain extremely concerned that the environmental document fails to meet the requirements mandated under the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA).¹ In particular, and as described in greater detail below, the Revised DEIR fails to adequately consider and disclose the significant air quality impacts generated by the proposed Project, or mitigate those impacts. The document is also deficient in its analysis of ocean noise caused by the Project, failing, in particular, to adequately disclose noise impacts, including cumulative impacts, or to mitigate those impacts. In addition, we are concerned that the Revised DEIR fails to adequately consider less environmentally harmful alternatives to the Project. Based on these concerns, the Revised DEIR must be further revised and recirculated for comment.

I. The Revised DEIR Fails to Adequately Analyze and Mitigate Significant Air Quality Impacts from the Project.

We are particularly concerned with emissions from this Project because such emissions will impact air quality in both the Ventura County Air Pollution Control District

¹ We have enclosed a copy of NRDC's comments to the original DEIR/DEIS for your reference, and reiterate the concerns raised in that letter to the extent such concerns have not been addressed in the revised document.

G020-1

The NRDC submitted a comment letter during the public comment period for the October 2004 Draft EIS/EIR, a copy of which was also attached to this letter (identified in this document as G020-1-A01). Responses to the comments from that letter are identified in this document as 2004 Comment Letter G535.

G020-2

Section 4.6.1.3 contains revised information on Project emissions and proposed control measures. Section 4.6.4 discusses the health effects attributed to air pollutants and includes revised impacts and mitigation measures.

The Project has been modified since issuance of the March 2006 Revised Draft EIR. See Section 1.4.2 for a summary of Project changes. The following Project changes would reduce emissions of nitrogen oxide and other air pollutants:

- Reduction in the number of LNG carriers and change in crew vessel trips;
- Use of natural gas to power LNG carriers in California Coastal Waters;
- Diesel-fueled support vessels with emission controls; and
- Use of specific engine standards for onshore construction equipment.

The Applicant has committed to implement the following additional measure to reduce air emissions:

- Repowering of existing non-Project vessels with cleaner-burning engines.

G020-1

G020-2

G020-3

G020-4

G020-5

G020-6

These changes required revisions to air pollutant emission estimates and related air quality analyses. Section 4.6.1.3 contains revised information on Project emissions and proposed control measures. Section 4.6.4 contains revised information on Project impacts and mitigation measures. These revisions address the concurrent emission of ozone precursors from the FSRU and Project vessels.

G020-3

Section 4.14.4 contains information on potential noise impacts and mitigation measures to address such impacts. "Noise" in Impact BioMar-3 in Section 4.7.4 addresses such impacts on marine biological resources.

Section 4.20.3.14 contains information on other offshore noise impacts. Section 4.20.3.7 contains information on cumulative noise impacts on marine biological resources.

G020-4

Both NEPA and the CEQA require the consideration of alternatives to a proposed project. A lead agency's lack of jurisdiction over a potential alternative is one factor that it may consider in determining if a potential alternative is feasible, reasonable, and merits detailed study in an EIS/EIR. Whether a potential alternative is purely hypothetical or speculative, or whether the potential alternative can be accomplished in a successful manner in a reasonable period of time are additional factors the lead agency may consider in assessing the feasibility and reasonability of the potential alternative.

From a NEPA perspective, while a Federal agency must analyze "a range of reasonable alternatives" (as opposed to any and all possible alternatives), and may be required to analyze an alternative that is outside the capability of an applicant and that is outside the jurisdiction of the agency, the threshold question in determining whether to analyze any alternative is whether that alternative would be a "reasonable" alternative. Reasonable alternatives include those that are practical and feasible from the technical and economic standpoint and using common sense (CEQ 40 Questions; #2a).

To provide for an effective "hard look" at the alternatives the agency must limit the range to those alternatives that will best serve the environmental review process, and not needlessly examine and discuss in depth remote or speculative alternatives that that discussion does not facilitate a better decision making process. As stated in 40 CFR 1502.14(a), the EIS should "rigorously explore and objectively evaluate all reasonable alternatives, and for alternatives which were eliminated from detailed study, briefly discuss the reasons for their having been eliminated."

Section 15126.6(a) of the State CEQA Guidelines states, in part, "[t]he Lead Agency is responsible for selecting a range of project alternatives for examination and must publicly disclose its reasoning for selecting those alternatives." The California Supreme Court in the Citizens of Goleta Valley case recognized that while an agency's jurisdiction was only one factor to consider, "[t]he law does not require in-depth review of alternatives that cannot be realistically considered and successfully accomplished." In addition, the discussion in section 15364 in the State CEQA Guidelines states that "[t]he lack of legal powers of an agency to use in imposing an alternative or mitigation measure may be as great a limitation as any economic, environmental, social, or technological factor."

Chapter 3 discusses energy conservation, efficiency, and renewable sources of energy, and explains why these potential alternatives were not studied in detail in the EIS/EIR. The range of alternatives studied in detail is reasonable and conforms to NEPA and the CEQA requirements.

G020-5

The lead agencies have reviewed the NEPA CEQ Guidelines and the State CEQA Guidelines concerning recirculation and have determined that the changes to the proposed Project and associated information that has been included in the document since the Revised Draft EIR was recirculated in March 2006 do not meet the criteria listed specifically in section 15088.5(a)(1-4) of the State CEQA Guidelines; therefore, the lead agencies believe recirculation is unwarranted.

G020-6

The Project has been modified since issuance of the March 2006 Revised Draft EIR. See Section 1.4.2 for a summary of Project changes. Section 4.6.1.3 contains revised information on Project emissions and proposed control measures. Section 4.6.4 discusses the health effects attributed to air pollutants and includes revised impacts and mitigation measures.

(VCAPCD) and South Coast Air Quality Management District (SCAQMD)—areas that already fail to meet federal and state air quality standards for certain criteria pollutants. Accordingly, it is imperative that a project of this magnitude accurately analyze and mitigate Project emissions. Nonetheless, despite changes made to the air quality analysis in the Revised DEIR, the analysis remains inadequate, and in many instances, is misleading.

G020-6
Continued

A. The Revised DEIR's Analysis of Air Quality Impacts Remains Inadequate.

1. The Revised DEIR Fails to Fully Quantify Emissions Generated from the Project.

G020-7

The Revised DEIR improperly provides emissions estimates that incorporate emissions reductions from proposed mitigation measures. We raised this concern in our comments to the original DEIS/DEIR, but yet this error remains in the Revised DEIR. For example, Appendix G7 of the environmental document explains that operational emissions estimates incorporate (and have been revised downward) to reflect utilization of cleaner equipment and LNG-fueled support vessels. *See* Revised DEIR at App. G7, 2. However, failing to disclose the total emissions generated by the Project *before* mitigation deceptively minimizes the Project's significant air quality impacts and precludes the public from understanding the full magnitude of the Project. Further, such an analysis prevents the public from determining whether the environmental document properly quantifies emissions from the Project or the efficacy of its mitigation measures. This error must be corrected.

2. The Revised DEIR Continues to Underestimate Emissions Impacts.

While the Revised DEIR provides more data than the original environmental document on how emissions were calculated, we are concerned that emissions estimates remain understated in several critical respects. For example, emissions from generators, submerged combustion vaporizers, vessels and tugboats appear underestimated. In particular, as detailed in the comments submitted by Environmental Defense Center (EDC), we are concerned that the Revised DEIR relied on the wrong emissions factors to calculate emissions from these sources, leading to an overall understatement of Project impacts.

G020-8

Further, the Revised DEIR appears to significantly underestimate vessel emissions by limiting its analysis to vessel emissions within 25 nautical miles (29 miles) of the California coast despite the fact that Project emissions will occur well beyond this area. Revised DEIR at 4.6-16. As a matter of black-letter CEQA law, an EIR must analyze all "direct effects" of a project, as well as all "indirect effects" that are caused by the project and are farther moved in distance, but reasonably foreseeable. CEQA Guidelines

G020-9

G020-7

As described in Section 4.1.5, Applicant measures are incorporated into and modify the Project. The impact analyses are based on the Project as modified. If an analysis concludes that there exists the possibility of a potentially significant impact even after Project modifications are considered, both NEPA and the CEQA require specific actions. Under the CEQA, the analysis establishes the appropriate impact class and determines additional required mitigation. Applicant measures included in the Project description are identified by the prefix "AM," e.g., AM PS-1a. Applicant measures are properly accounted for in Appendix G7. Mitigation measures that are specified by the lead agencies to reduce any potential significant environmental impacts remaining after Project modification are identified by the prefix "MM," e.g., MM PS-1e.

The Project has been modified since issuance of the October 2004 Draft EIS/EIR and the March 2006 Revised Draft EIR. These modifications prompted reevaluations of the regulatory requirements applicable to the Project and of the air quality impacts resulting from Project operational and construction emissions. The lead Federal agencies have determined that Project operational and construction activities are not subject to the General Conformity Rule (and associated emission offset requirements in this rule). The USEPA has also made a preliminary determination that the emission offsets requirements outlined in VCAPCD Rule 26.2 (or other regulations) are not applicable to Cabrillo Port equipment and operations. Section 4.6.2 contains information on the regulatory requirements for the Project. Section 4.6.4 contains updated information on feasible mitigation measures, which address Class I air quality impacts.

G020-8

See the response to Comment G020-6.

G020-9

The Project has been modified since issuance of the March 2006 Revised Draft EIR. See Section 1.4.2 for a summary of Project changes. LNG carriers associated with the Project would operate on natural gas (boil-off gas from the LNG cargo) with 1 percent diesel pilot during all operations in California Coastal Waters. Section 4.6.1.3 contains information on emissions from LNG carriers operating in California Coastal Waters, as defined by the California Air Resources Board. Also, Section 4.6.1.3 contains updated information on the LNG carrier engine configurations and

associated emissions. A combination of purpose-built vessels (those constructed exclusively for the Project) and other vessels not dedicated to the Project would deliver LNG to the FSRU. Contracts with vessel operators would require all LNG carriers to be powered exclusively by Wartsila 50DF series dual-fuel electric engines or equivalent dual-fuel electric engines. The LNG vessels would be equipped with an array of dual-fuel electric engines of varying sizes to provide power for propulsion as well as auxiliary systems on the vessel. The vessels would not be fitted with auxiliary boilers or generators.

§§15358, 15126. Nonetheless, the Revised DEIR arbitrarily limits its analysis of vessel emissions to within 29 miles of the California coast, despite the fact that the California Air Resources Board has concluded that emissions occurring over 100 miles off the California coast have onshore impacts. As a result, the Revised DEIR fails to analyze significant onshore air quality impacts in areas in nonattainment for state and federal standards. Moreover, this error is compounded by the fact that the Revised DEIR does not indicate whether LNG carriers will operate on natural gas or diesel fuel once they travel beyond 29 miles from the California coast. Revised DEIR at 4.6-15. If such vessels use diesel fuel, they will generate significantly higher emissions and thus, even greater onshore impacts.

G020-9
Continued

Additionally, the Revised DEIR fails to account for emissions created by the importation of gas with higher heating values ("hot gas") through Cabrillo Port, and as a result, may have significantly underestimated NOx emissions. As the Revised DEIR acknowledges, "the combustion of natural gas with uncharacteristically higher heating values could increase stationary source NOx emissions by greater than 20%." Revised DEIR at 4.6-24. Accordingly, the use of imported "hot gas" in residential and nonresidential natural gas fired equipment could release increased NOx emissions in the VCAPCD, the SCAQMD, or any other ozone nonattainment areas that would import gas from the Project site. Analyzing emissions impacts created by the importation of "hot gas" is particularly important here given that BHP Billiton has not committed to importing gas from any specific source, Revised DEIR at 4.6-24, and refused to install equipment that would strip out LNG components to reduce its heat value and provide cleaner gas, irrespective of source. Thus, the environmental document must identify possible source locations for Project gas and calculate the resulting area-wide emissions impacts caused by the use of gas from each source field. This analysis should also include the extent to which emissions from Project vessels using "hot gas" will create increased NOx emissions and onshore impacts.

G020-10

Lastly, we share in the concerns raised by EDC that FSRU emissions (such as start up emissions or FSRU emissions generally) are improperly segmented from other Project emissions (i.e., vessel emissions). As the Revised DEIR reports, normal project operations will generate emissions from "stationary sources on the FSRU and from marine vessels, i.e., LNG carriers, support tugs, and a crew boat." Revised DEIR at 4.6-12 – 4.6-13. Consequently, there is no basis to analyze offshore emissions separately, and doing so only lessens the appearance of offshore emissions and onshore impacts.

G020-11

3. The Lead Agency Should Conduct a Health Risk Assessment.

The Revised DEIR does not appear to include a health risk assessment (HRA). The lead agency should assess in a health risk assessment the level of toxic risk, as well as non-cancer related health impacts that communities will face from this proposed Project. We recommend that the lead agency work jointly with the SCAQMD and VCAPCD to develop a HRA for this Project.

G020-12

G020-10

As indicated in Section 4.6.2, the natural gas imported by the proposed Project would need to meet the requirements of Rule 30 and General Order 58-A of the California Public Utilities Commission (CPUC) or it could not be accepted for distribution by SoCalGas. Rule 30, as described, has specific requirements, including a heating value range.

Section 4.6.2 contains additional information on the regulatory setting affecting air quality and a revised discussion of the heating value of imported natural gas that incorporates the recent rulemaking by the CPUC. An analysis of the impacts of the CPUC rulemaking is beyond the scope of this document as required by NEPA and the CEQA.

G020-11

FSRU start-up emissions are distinguished from normal FSRU operational emissions because such emissions are a one-time occurrence and are not construction emissions. Section 4.6.4 provides an analysis of the air quality impacts associated with FSRU start-up emissions. Section 4.6.4 also includes analyses that examine the combined air quality impacts of vessel and FSRU emissions.

G020-12

Section 4.6.4 contains updated information on a health risk analysis of emissions from Project operational activities and onshore construction activities.

Mr. Dwight E. Sanders
May 12, 2006
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B. The Revised DEIR's Consideration of Mitigation Measures for Air Quality Impacts Remains Inadequate.

1. EPA's Permitting Decision is Legally Incorrect and Does Not Relieve the Project Applicant of its Obligations to Mitigate Emissions Under CEQA.

One of the most troubling aspects of this Project is the lack of mitigation for Project emissions. Notably, the original DEIS/DEIR for the Project concluded that emissions would be mitigated to levels "less than significant," and thus, fail to generate any "Class 1" (significant and unavoidable) air quality impacts from the Project. DEIS/DEIR at 4.6-12. To achieve this result, the DEIS/DEIR reasoned that the Project would comply with Ventura and Los Angeles county emissions reduction requirements and offset any Project-related emissions. DEIS/DEIR at 4.6-12 *et seq.* However, as NRDC noted in its previous comment letter, the DEIS/DEIR failed to include any discussion of the level of offsets required, or the kind of offsets that could be obtained to fully mitigate impacts from the Project.

Now, the Revised DEIR finds that the Project will generate Class 1 impacts, but fails to adequately mitigate those impacts. Moreover, EPA's Clean Air Act permitting decision that offsets are not required for sources constructed in the Project area is legally incorrect and, in any event, does not relieve the Project applicant's obligations under CEQA to mitigate Project impacts to the maximum extent feasible.

Preliminarily, we are deeply concerned by EPA's permitting decision, and support the comments submitted by EDC on this issue. As you know, in 2004, EPA concluded that Cabrillo Port must be regulated by local VCAPCD onshore rules according to federal law, and that the port would need to obtain emission reduction credits to offset significant air emissions from the Project in order to comply with the Clean Air Act and VCAPCD local New Source Rule 26. In a surprising and legally inexplicable change of position, EPA changed its mind and concluded that local rules do not require such emissions to be offset. EPA based its decision on VCAPCD Local Rule 26.2, which exempts from New Source Review "any emissions unit located on San Nicolas Island or Anacapa Island." VCAPCD Rule 26.3. However, Cabrillo Port would not be located on either of these islands, and it is our understanding that this exemption has never been applied to a facility that was not located on one of these islands. Simply put, there is no legal basis for EPA's permitting decision, and it will have the devastating effect of undermining VCAPCD and SCAQMD's ability to attain specific air quality standards since emissions from the Project will come onshore and not be offset.

Additionally, notwithstanding EPA's improper permitting decision, CEQA requires that significant air quality impacts be mitigated to the maximum extent feasible. *See* Cal. Pub. Resource Code § 21002.1 ("Each public agency shall mitigate or avoid the significant effects on the environment of projects that it carries out or approves whenever it is

G020-13

The proposed Project has been evaluated within the regulatory framework as it has been defined by those agencies given such responsibilities by law, rule, or regulation.

The Project has also been modified since issuance of the October 2004 Draft EIS/EIR and the March 2006 Revised Draft EIR. See Section 1.4.2 for a summary of Project changes. These modifications prompted reevaluations of the regulatory requirements applicable to the Project and of the air quality impacts resulting from Project operational and construction emissions.

Section 4.6.1.3 contains revised information on Project emissions and proposed control measures. Section 4.6.2 discusses the current regulatory position of the Ventura County Air Pollution Control District (VCAPCD), which was detailed in a letter to the USEPA. Section 4.6.4 contains updated information on feasible mitigation measures which address Class I air quality impacts.

The lead Federal agencies have determined that Project operational and construction activities are not subject to the General Conformity Rule (and associated emission offset requirements in this rule). The USEPA is responsible for determining the Federal, State, and local air quality laws and regulations that are applicable to deepwater ports, including Cabrillo Port. The USEPA has made a preliminary determination that the emission offsets requirements outlined in VCAPCD Rule 26.2 are not applicable to Cabrillo Port equipment and operations.

It should be noted that prior to the release of the March 2006 Revised Draft EIR, the staff of the VCAPCD did not object to the USEPA's permitting decision. As to the position of the California Air Resources Board (CARB) in the same timeframe, see the response to the comment on page 54 of this letter.

Impact AIR-4 and Impact AIR-5 in Section 4.6.4 have been revised to provide specific information regarding the Applicant's emissions reduction programs and their review by the USEPA and the CARB. As part of air permit-to-construct application procedures, the Applicant has committed to the USEPA to achieve emissions reductions (in addition to reductions inherent to the Project) to an amount equal to the FSRU's annual NOx emissions. The Applicant has executed contracts to retrofit two marine vessels (long haul tugs) by replacing the propulsion engines of each vessel with modern low emitting engines (Tier 2 compliant diesel-fired engines). At the request of the USEPA and the CARB, the Applicant conducted source testing to assist in determining the

G020-13

G020-14

G020-15

emission reductions expected as a result of the retrofits. Both the USEPA and the CARB have reviewed the results, but there is not yet a consensus on the estimated emission reductions from the mitigation proposal.

Based on the USEPA's and CARB's estimates, the proposed Emissions Reduction Program (AM AIR-4a) would provide for NOx emission reductions greater than the estimated annual NOx emissions from FSRU equipment and estimated NOx emissions from operation of LNG carrier offloading equipment. However, the total emission reductions would be less than the annual NOx emissions estimated for all operations (FSRU and Project vessels) in California Coastal Waters, as defined by the CARB. According to CARB, the emission reduction proposal "represents more than what would otherwise be required by the current determination of applicable regulations."

Appendix G9 contains a memorandum from the CARB to the CSLC on this topic. Electronic copies of the Applicant's reports submitted to the USEPA that detail the tug retrofits and related emission reductions are available at www.epa.gov/region09/liq-natl-gas/cabrillo-air.html.

G020-14

The USEPA is responsible for determining the designations of each region of the United States with respect to the National Ambient Air Quality Standards. The USEPA is also responsible for determining the Federal, State, and local air quality laws and regulations that are applicable to deepwater ports, including Cabrillo Port.

See also the response to Comment G020-13.

G020-15

See the responses to Comments G020-13 and G020-14.

Mitigation measures for each significant impact are stipulated throughout the EIS/EIR and those that require future products, e.g., the Biological Resource Mitigation Implementation and Monitoring Plan, contain a listing of topics that must be addressed. These requirements are performance standards by which such plans would be evaluated when it is practical to prepare them. Under the CEQA, mitigation measures "may specify performance standards which would mitigate the significant effect of the project and which may be accomplished in more than one specific way." (State CEQA Guidelines section 15126.4(b)). NEPA does not require performance measures for proposed mitigation but only requires mitigation measures to be identified (40 CFR 1502.14(f) and

1502.16(h)).

The lead Federal and State agencies share the responsibility to ensure that mitigation measures are implemented. Table 6.1-1 in Chapter 6 is the basis for the Mitigation Monitoring Program, which would be implemented, consistent with section 15097(a) of the State CEQA Guidelines, to ensure that each mitigation measure is incorporated into Project design, construction, operation, and maintenance activities.

Section 4.2.5 contains information on liability in case of an accident and reimbursement for local agencies.

feasible to do so"). The Revised EIR fails to fulfill this important obligation. For example, the Revised DEIR fails to adequately consider offsets for NOx and ROC emissions from construction and operation of the Project. Further, although CEQA makes clear that "[f]ormulation of mitigation measures should not be deferred until some future time," CEQA Guidelines, at §15126.4, the Revised DEIR does precisely that.

Notably, to mitigate emissions of ozone precursors from the FSRU, the Revised DEIR states that the Project applicant "has committed to the US EPA, the CARB, and local air districts to identify a suitable emission reduction program." Revised DEIR at 4.6-33. In addition, to mitigate emissions of ozone precursors from vessels in California coastal waters, the Revised DEIR states that the applicant will "consult with CARB in an effort to identify and implement additional emission reduction opportunities." Revised DEIR at 4.6-35. Similarly, the lead agency proposes to prepare a Construction Emissions Reduction Plan and a Construction Fugitive Dust Plan at some future date to mitigate construction emissions. Revised DEIR at 4.6-27, 4.6-29. All of these measures fail to provide timetables, performance standards, or other assurances that they will reduce Project emissions, and as a result, they violate CEQA. *See e.g., Federation of Hillside & Canyon Ass'ns v. Los Angeles*, 83 Cal.App.4th 1252, 1261-62 (2000) (vacating project approval because City failed to make "a binding commitment to implement the mitigation measures . . . in a manner that will ensure their implementation").

II. The Revised DEIR's Analysis of Ocean Noise Remains Inadequate.

As discussed in our comments on the original DEIS/DEIR, many aspects of the Project will generate undersea noise that is potentially harmful to whales, fish, and other marine life, from construction and operation of the FSRU to construction of the pipelines to regular LNG tanker traffic. To our dismay, the issues raised in our previous comment letter have not been addressed in the Revised EIR, and, thus, we incorporate herein our original comments on this issue.²

III. The Revised DEIR's Consideration of Project Alternatives is Inadequate.

Given the significant environmental impacts disclosed in the Revised DEIR, it is extremely important that the environmental document evaluate a range of alternatives. In particular, we are concerned that reasonable, less environmentally harmful alternatives have not been adequately considered in the Revised DEIR. In contrast to the BHP Billiton proposal to build a massive LNG storage platform, recent proposals by other companies could eliminate the platform altogether in favor of a docking pipeline, or

² For an overview of the serious harms posed to marine life by undersea noise, see "Sounding the Depths II: The rising toll of sonar, shipping and industrial ocean noise on marine life." 80 pp. (NRDC 2005) (available at <http://www.nrdc.org/wildlife/marine/sound/sound.pdf>). For a discussion of the growing problem of ocean noise in the Channel Islands in particular, see Polefka, *et al.*, Environmental Defense Center, "Anthropogenic Noise and the Channel Islands National Marine Sanctuary," (2004).

G020-15 Continued

G020-15
Continued

G020-16

Impact BioMar-5 in Section 4.7.4 contains updated information on potential noise impacts on the marine environment and mitigation measures to address such impacts.

G020-17

Both NEPA and the CEQA require the consideration of alternatives to a proposed project. A lead agency's lack of jurisdiction over a potential alternative is one factor that it may consider in determining if a potential alternative is feasible, reasonable, and merits detailed study in an EIS/EIR. Whether a potential alternative is purely hypothetical or speculative, or whether the potential alternative can be accomplished in a successful manner in a reasonable period of time are additional factors the lead agency may consider in assessing the feasibility and reasonability of the potential alternative.

From a NEPA perspective, while a Federal agency must analyze "a range of reasonable alternatives" (as opposed to any and all possible alternatives), and may be required to analyze an alternative that is outside the capability of an applicant and that is outside the jurisdiction of the agency, the threshold question in determining whether to analyze any alternative is whether that alternative would be a "reasonable" alternative. Reasonable alternatives include those that are practical and feasible from the technical and economic standpoint and using common sense (CEQ 40 Questions; #2a).

To provide for an effective "hard look" at the alternatives the agency must limit the range to those alternatives that will best serve the environmental review process, and not needlessly examine and discuss in depth remote or speculative alternatives that that discussion does not facilitate a better decision making process. As stated in 40 CFR 1502.14(a), the EIS should "rigorously explore and objectively evaluate all reasonable alternatives, and for alternatives which were eliminated from detailed study, briefly discuss the reasons for their having been eliminated."

Section 15126.6(a) of the State CEQA Guidelines states, in part, "[t]he Lead Agency is responsible for selecting a range of project alternatives for examination and must publicly disclose its reasoning for selecting those alternatives." The California Supreme Court in the *Citizens of Goleta Valley* case recognized that while an agency's jurisdiction was only one factor to consider, "[t]he law

G020-16

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G020-18

does not require in-depth review of alternatives that cannot be realistically considered and successfully accomplished." In addition, the discussion in section 15364 in the State CEQA Guidelines states that "[t]he lack of legal powers of an agency to use in imposing an alternative or mitigation measure may be as great a limitation as any economic, environmental, social, or technological factor."

Chapter 3 discusses energy conservation, efficiency, and renewable sources of energy, and explains why these potential alternatives were not studied in detail in the EIS/EIR. The range of alternatives studied in detail is reasonable and conforms to NEPA and the CEQA requirements.

The EIS/EIR initially evaluated 18 locations for the FSRU as potential locations for the deepwater port. It built on previous California Coastal Commission studies that evaluated nearly 100 locations. Sections 3.3.7 and 3.3.9 discuss alternate locations and technologies that were considered.

G020-18

Table 3.3-1a in Section 3.3.7.3 provides a comparison of Class I impacts for the proposed Project, the Sound Energy Solutions Project (Port of Long Beach) and the North Baja Pipeline Expansion Project. Section 3.3.8.3 contains information on other floating offshore LNG terminal technologies, including single- and multiple-point mooring direct regasification, and why such technologies were eliminated from further consideration. Section 4.20 contains additional information on other proposed LNG import facilities.

Mr. Dwight E. Sanders
May 12, 2006
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G020-18 Continued

eliminate all storage by offloading to a regassification facility and then transferring the gas to a pipeline. Both proposals are technologically feasible and, indeed, are pending proposals for the southern California coast. Accordingly, these proposals should be fully evaluated and considered in a revised environmental document.

G020-18
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G020-19

The lead agencies concur and have accordingly caused to be prepared this Final EIS/EIR in full conformance with NEPA and the CEQA.

G020-20

See the response to Comment G020-5.

IV. Conclusion.

The EIR is "the heart of CEQA" and an "environmental 'alarm bell' whose purpose it is to alert the public and its responsible officials to environmental changes before they have reached the ecological points of no return." *Laurel Heights Improvement Ass'n v. Univ. of California*, 47 Cal.3d 376, 392 (1988). It serves both to ensure that public agencies "take all action necessary to protect, rehabilitate, and enhance the environmental quality of the state," and to "demonstrate to an apprehensive citizenry that the agency has, in fact, analyzed and considered the ecological implications of its action." *Id.* These sentiments, expressed by the California Supreme Court, are particularly applicable to the proposed Project, which would be California's first offshore LNG import facility. Thus, for all the reasons discussed above, we strongly urge that the environmental document be further revised and recirculated for comment.

G020-19

G020-20

Thank you for considering our comments.

Sincerely,



Melissa Lin Perrella
Senior Project Attorney



Cara Horowitz
Project Attorney

Enclosure (Letter from C. Horowitz and M. Lin Perrella to U.S. Department of Transportation and Cy Oggins, California State Lands Commission re DEIS/DEIR (December 2004)).



NATURAL RESOURCES DEFENSE COUNCIL

G020-A01-1

This attachment is a copy of a letter that the NRDC submitted during the public comment period for the October 2004 Draft EIS/EIR. Responses to the comments from that letter are identified in this document as 2004 Comment Letter G535.

Via U.S. Mail, Facsimile and Electronic Mail

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Re Comments on DEIS/EIR for the Cabrillo Liquefied Natural Gas Deepwater Port; Federal Docket #: USCG-2004-16877, State Clearinghouse #2004021107

G020-A01-1

To Whom it May Concern:

We write on behalf of the Natural Resources Defense Council (NRDC) and our over 550,000 members, tens of thousands of whom reside in Southern California, to strongly urge the United States Coast Guard (USCG), the United States Maritime Administration (MARAD), and the California State Lands Commission (CSLC) to revise the draft Environmental Impact Statement/Environmental Impact Report (DEIS/EIR) for the Cabrillo Liquefied Natural Gas (LNG) Deepwater Port (the Project), and allow the public sufficient time to provide written comments and testimony at a public hearing regarding the revised document. In addition, we reiterate our comments expressed in the attached December 8, 2004 letter, and repeat our call for a suspension of the Deepwater Port Act timeline for the Project in order to allow government agencies adequate time to gather essential information missing from the DEIS/EIR.

Here, the DEIS/EIR was prepared to fulfill the requirements of the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA). NEPA has twin aims. "First, it places upon an agency the obligation to consider every significant aspect of the environmental impact of a proposed action. Second, it ensures that the agency will inform the public that it has indeed considered environmental concerns in its decisionmaking process." *Baltimore Gas & Electric Co., v. NRDC*, 462 U.S. 87, 97 (1983); *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332 349-50 (1989) (an EIS serves an "informational role" and provides a "spring board for public comment"). Similarly, the

basic purpose of an EIR under CEQA, “is to inform the public and its responsible officials of the environmental consequences of their decisions before they are made.” *Citizens of Goleta Valley v. Board of Supervisors*, 52 Cal.3d 553, 564 (1990).

The proposed Project includes the construction and operation of a new offshore LNG floating storage and regasification unit (FSRU), offshore and onshore pipelines, and related onshore facilities. After carefully reviewing the DEIS/EIR, we are deeply concerned that the document fails to fulfill its role as an “informational document” under NEPA and CEQA. See, e.g. *Baltimore Gas & Electric*, 462 U.S. at 97; *Napa Citizens for Honest Government v. Napa County Board of Supervisors*, 91 Cal. App. 4th 342, 360 (2001). In particular, the DEIS/EIR fails to adequately consider and disclose the significant air quality impacts generated by the proposed project, or mitigate those significant impacts. The document is also deficient in its analysis of ocean noise caused by the Project, failing, in particular, to adequately consider and disclose project impacts, including cumulative impacts, or to mitigate those impacts. Moreover, we are concerned by the numerous deficiencies in the DEIS/EIR discussed in the comment letter submitted to you by the Environmental Defense Center (EDC), and we incorporate EDC’s comments herein.

Our concerns are especially strong because, as you know, this is the first DEIS/EIR created for an LNG import facility in California and, most importantly, the first environmental review of its kind in the world for an offshore LNG project. The informational role of this document therefore takes on special importance, and it is critical that it contain all the information and analysis essential to making an informed decision about moving forward.

I. The DEIS/EIR Fails to Analyze or Mitigate Adequately Impacts to Marine Resources from Ocean Noise

A. The Importance of Ocean Noise Impacts

As acknowledged in the DEIS/EIR, both the construction phase and the ongoing operations phase of the proposed project will generate considerable underwater noise. DEIS/EIR 4.7-51 *et seq.* Noise has quickly become a ubiquitous form of marine pollution, especially in the coastal waters of developed countries. Intense underwater sound is generated by oil exploration, seismic air guns, ship traffic, underwater explosives, high-powered sonar, anti-predator devices, shoreline and offshore development, and a host of other commercial, military, and industrial sources. It is now understood that humans threaten a broad range of species through the introduction of acoustic energy into the oceans and seas.

Over the last ten years, an accumulating body of evidence has shown that the energy generated by these sources of noise can kill and physically injure marine mammals, fish, and other ocean life. Noise pollution can cause marine mammals to abandon their habitat or alter their behaviors, and can mask natural sounds, such as the calls of mates and predators, that may be critical for them to hear. Several dramatic and widely-reported mass beaked whale strandings in recent years associated with high-energy sonar have shown that noise pollution can also cause more direct mortality of marine mammals. Studies also suggest that intense noise may cause similar effects, including habitat abandonment, in a variety of

commercially harvested species of fish and may be linked to giant squid and snow crab mortality.

Because of their known sensitivity to sound, marine mammals have been the focus of much of the current research. The acute effects of acoustic pollution on marine mammals are varied and include:

- mortality or serious injury caused by hemorrhaging of tissues in lungs, air cavities, or other structures of the body;
- mortality or serious injury caused by the possible formation of nitrogen bubbles in the bloodstream, leading to embolism;
- stranding in shallow water or beaching caused by these or other effects, such as aversive reactions;
- temporary or permanent loss of hearing, which impairs an animal's ability to communicate, avoid predators, and detect and capture prey;
- avoidance behavior, which can lead to abandonment of habitat or migratory pathways, energetic consequences, and disruption of mating, feeding, nursing, or migration;
- aggressive (or agonistic) behavior, which can result in injury;
- masking of biologically meaningful sounds, such as the call of predators or potential mates; and
- declines in the availability and viability of prey species, such as fish and shrimp.¹

Although most research to date has been devoted to marine mammals, ocean noise is a problem whose impacts may be ecosystem-wide. Fish, in particular, have been the subject of considerable recent interest. In one series of studies, scientists from Australia and the United States demonstrated that airguns (a technology commonly used in offshore oil exploration) can cause extensive and apparently irreversible damage to the inner ears of fish. This damage, which was severe enough to compromise survival, was seen even at exposure levels that might occur several kilometers from a source.² Studies have also suggested strong behavioral reactions in fish. A Norwegian study, for example, saw catch rates of cod and haddock fall dramatically (between 45 and 70%) in the vicinity of an airgun array,

¹ For a review of research on impacts of undersea noise, see, e.g., NRC, *Ocean Noise and Marine Mammals*; and Evans, P.G.H. and L.A. Miller, eds., *Proceedings of the Workshop on Active Sonar and Cetaceans at the European Cetacean Society's 17th Annual Conference* (2004).

² McCauley, R., J. Fewtrell, and A.N. Popper, "High intensity anthropogenic sound damages fish ears," *Journal of the Acoustical Society of America* 113 (2003): pp. 638-42; see also McCauley, R. et al., *Marine seismic surveys: analysis and propagation of air-gun signals; and effects of air-gun exposure on humpback whales, sea turtles, fishes and squid* (Perth: Curtin University Centre for Marine Science and Technology, 2000). In a separate study commissioned by the British Defense Research Agency, fish exposed to loud, low-frequency sounds suffered internal injuries, eye hemorrhaging, auditory damage, and death. The most sensitive subjects were brown trout (*salmo trutta*), a close relative of 26 endangered and threatened steelhead and salmon species: internal injuries were demonstrated at levels above 160 decibels. Turnpenny, A.W.H., K.P. Thatcher, and J.R. Nedwell, *The Effects on Fish and Other Marine Animals of High-Level Underwater Sound* (Southampton: Fawley Aquatic Research Laboratories, 1994).

affecting fishermen across an area nearly 5000 square kilometers in size. Catch rates did not recover within five days after operations ended.³

Sources of noise most relevant to this project include commercial ship traffic and construction activities. The chief source of noise on most commercial vessels is the ship's propeller, which at a certain speed causes the water around it to cavitate, producing loud, broadband noise. In many parts of the world – and especially in the Northern hemisphere where shipping is heaviest – that noise dominates the low frequencies below 600 Hz.⁴ The acoustic energy produced by a ship generally increases in proportion to its size, its load, its speed, and its age, and ships can produce underwater sounds in the range of 190 dB. Among the leading sound producers are the oil tanker and bulk dry ship, which, though responsible for less than eight percent of the total number of vessels in the world commercial fleet, account for approximately one-half of the gross tonnage.⁵

Unfortunately, the same frequencies occupied by vessel noise are also used by many marine species, including the baleen whales, most of which are already listed under various international agreements as vulnerable, threatened, or endangered. The concern is that shipping noise may have long-term, population-level impacts on these species, which, given what is known of their sound production and ecology, are thought by some specialists to rely on low-frequency sound for communication over vast distances.⁶

Because of the importance of undersea noise to marine mammals, fish, and other marine resources, it is imperative that the EIS/EIR for this project incorporate the rigorous, objective analysis demanded by NEPA and CEQA with respect to these impacts. Unfortunately, the DEIS/EIR fails to meet this standard.

B. The DEIS/EIR Fails to Provide Sufficient Baseline Data on Noise to Support Its Conclusion About Significance

Both NEPA and CEQA mandate that “significant environmental impacts” must be calculated by comparing the projected future impacts of the proposed project to the present level of impacts at a location without that project. For example, CEQA Guideline 15125 mandates:

An EIR must include a description of the physical environmental conditions in the vicinity of the project, as they exist at the time the notice of preparation is published or ... at the time environmental analysis is commenced, from both a local and regional perspective. This environmental setting will

³ Engås, A., S. Løkkeborg, E. Ona, and A.V. Soldal, “Effects of seismic shooting on local abundance and catch rates of cod (*Gadus morhua*) and haddock (*Melanogrammus aeglefinus*),” *Canadian Journal of Fisheries and Aquatic Sciences* 53 (1996): pp. 2238-2249.

⁴ NRC, *Ocean Noise and Marine Mammals*.

⁵ *Id.*; see also McCarthy, E., “Has Ambient Noise from Shipping Increased?” Presentation to the National Research Council Committee on Potential Impacts of Ambient Noise in the Ocean on Marine Mammals (2001). The NRC report suggests a correlation may exist generally between increases in tonnage and the rise of ambient vessel noise.

⁶ See, e.g., Croll, D., C.W. Clark, A. Acevado, B. Tershy, S. Flores, J. Gedamke, and J. Urbán, “Only male fin whales sing loud songs,” *Nature* 417 (2002): p. 809; Payne, R., and D. Webb, “Orientation by Means of Long-Range Acoustic Signaling in Baleen Whales,” *Annals of the New York Academy of Sciences* 188 (1971): pp. 110-41.

normally constitute the baseline physical conditions by which a lead agency determines whether an impact is significant.

See also CEQA Guideline 15126.2 (same). An EIS must employ a similar baseline under NEPA. With respect to ocean noise, however, the DEIS/EIR fails to provide an adequate baseline against which underwater noise impacts may be judged.

Nowhere in the section on “Noise Disrupting Marine Mammal Behavior,” for example, does the document discuss current ocean noise levels impacting marine mammal populations in the area, either quantitatively or even qualitatively. DEIS/EIR at 4.7 51-55. It does not discuss, *e.g.*, the significant noise contributed to the project area by the nearby commercial shipping lanes heavily used by vessels heading into the ports of Long Beach and Los Angeles, along which roughly 17 tankers travel every day near the project area.⁷ According to a recent report on anthropogenic noise in the nearby Channel Islands National Marine Sanctuary (or CINMS), this rate of vessel traffic together with “the low attenuation rate of the characteristic low-frequency sound emission [of ships], and an average ship passage rate of about 84 minutes” means that “CINMS ecology faces essentially incessant, cumulative exposure to ubiquitous large vessel traffic noise.” *Id.* The FSRU is located just 2.5 nautical miles from the center of the nearest of these shipping lanes, and the subsea pipeline will be constructed directly under them. The DEIS/EIR cannot analyze the impacts of noise from the proposed project without discussing how the project’s noise generation will interact with these baseline conditions.

Even where the document does discuss current offshore noise levels, it does so in a manner meaningless for evaluating undersea noise impacts. Elsewhere, the DEIS/EIR contains a two-sentence mention of current noise levels offshore, stating that “the existing sound levels 12.2 nautical miles . . . offshore vary depending on weather conditions and ship traffic,” and quoting a different EIS as characterizing “the area’s average baseline noise levels at 50 to 55 dBA.” DEIS/EIR at 4.14-2. These numbers are useless for the purpose of evaluating the significance of project noise impacts on marine mammals and other sea life, however, because nothing suggests that they refer to underwater, as opposed to air, noise levels.⁸

Without setting forth and assessing the levels of undersea noise currently impacting the marine resources of the project area, the DEIS/EIR cannot properly analyze the additive effect of the noise to be contributed by the proposed project. Nor can the DEIS/EIR come to valid conclusions about the significance of expected noise impacts, absent an understanding and discussion of baseline conditions. Its findings that noise impacts on marine mammals and fish will be “less than significant,” *see* DEIS/EIR at 4.7-39 and 54, are therefore insupportable.

⁷ Shiva Polefka, “Anthropogenic Noise and the Channel Islands National Marine Sanctuary: How Noise Affects Sanctuary Resources, and What We Can Do About It,” at 13 (Santa Barbara: September 2004). Because of its strong findings on the threat of anthropogenic noise to the resources of the Channel Islands National Marine Sanctuary, this report has been forwarded to the Channel Islands National Marine Sanctuary Manager by the Sanctuary Advisory Council for formal consideration.

⁸ We further note that when this two-sentence reference to the area’s noise levels is repeated in a section on noise impacts to fish, its uncertain application to underwater or air noise levels makes its inclusion there unhelpful and confusing.

C. The DEIS/EIR Fails to Provide Sufficient Detail about the Project's Generation of Underwater Noise

The DEIS/EIR contains a four-page discussion entitled “Noise Disrupting Marine Mammal Behavior” and another three-quarter-page discussion of noise impacts to fish. *See* DEIS/EIR at 4.7-39, 51-54. Despite its superficial recognition of the need to analyze undersea noise impacts, however, the DEIS/EIR fails to provide sufficient (or almost any) detail about undersea noise to be generated by the proposed project. Instead, the document delivers a generic summary of some existing research on the characteristics and impacts of undersea noise, without any project-specific discussion or analysis. This is clearly insufficient to meet NEPA and CEQA requirements for an analysis of the project's environmental impacts.

Based on the project description, it is reasonable to assume that several phases of this project will generate significant underwater noise. For example, the construction of the Floating Storage and Regasification Unit, the construction of the undersea pipelines to shore, and the continued long-term operation of large commercial vessels bringing LNG to the port will all create undersea noise. This noise, as summarized above, will likely affect marine mammals, fish, and other marine resources in the region. Yet the section of the DEIS/EIR entitled “Noise Disrupting Marine Mammal Behavior” contains almost no detail about what exactly the project's generation of underwater noise will be.

Instead, what's presented in that section is a fourteen paragraph lecture on the general issue of marine mammals and noise, with only one paragraph (at DEIS/EIR 4.7-52) containing information specific to the Cabrillo port project. That paragraph contains some projected decibel levels for the operation of the FSRU, but it fails to analyze what impact this noise generation will have on marine resources. Moreover, the section fails altogether to estimate noise generation levels or frequencies for all other phases of the Cabrillo port construction and operation, including FSRU construction, undersea pipe-laying, and ongoing LNG tanker operation.

To see how inadequate this discussion of undersea noise generation is, one need only compare it to the discussion of noise impacts on people contained at DEIS/EIR 4.14 (which analyses the generation of noise levels in air). That section contains, for example, a table summarizing eleven different pieces of construction equipment used in horizontal directional drilling, stating, for each piece, the number to be used, the average load expected for each piece, and the estimated received noise level for each piece at 50, 100, 250, 500, 1,000 and 2,500 feet from the device. *See* DEIS/EIR Table 4.14-5, “Construction Noise from HDD.” A similar table is included for the thirty pieces of equipment to be used for trenching activities. *See* DEIS/EIR Table 4.14-6. In all, the section on noise impacts to people is eighteen pages long, and its level of detail helps reveal the infirmities of the document's analogous undersea noise analysis.

In short, it is not enough to talk generally about impacts of noise without engaging in project-specific analyses of noise levels and impacts. The DEIS/EIR must be revised to speak meaningfully to the issue of undersea noise and marine resources in order to satisfy CEQA and NEPA's call for a “full and fair discussion of significant environmental impacts.” 40 C.F.R. § 1502.1.

D. The DEIS/EIR Fails to Address Adequately the Cumulative Impacts of Noise

As part of an EIS's "full and fair discussion of significant environmental impacts," 40 C.F.R. § 1502.1, the document must take account of the "impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future significant actions." *Id.* § 1508.7. CEQA contains similar cumulative effects requirements. Here, the DEIS/EIR fails to include adequate information about current and projected man-made underwater noise levels in the project area to permit an adequate cumulative effects analysis.

For example, the DEIS/EIR fails to analyze the cumulative impact of this project together with existing ship traffic noise generated by the nearby commercial shipping lanes. Though the DEIS/EIR states that "[p]otential cumulative impacts from the proposed Project include the effects of additional vessel or aircraft noise on marine mammals," it fails to provide any quantitative or qualitative discussion of the levels of noise that are currently generated by the nearby shipping lanes. *See* DEIS/EIR at 4.20-18-19. It also fails to provide any analysis of the effect of reasonably foreseeable growth in this shipping noise over the near future, despite the fact that the main ports served by these shipping lines, Los Angeles/Long Beach and San Francisco, are respectively the first and third busiest ports for container ship arrivals in the U.S. and are projected to increase their containership arrivals by 5-10% *per year* over the next ten years.⁹ As mentioned above in the discussion of noise baselines, a report on the problem of undersea noise recently concluded that the nearby Channel Islands National Marine Sanctuary "faces essentially incessant, cumulative exposure to ubiquitous large vessel traffic noise."¹⁰ One cannot properly analyze the noise impacts of the proposed project without considering this context.

Nor does the DEIS/EIR adequately discuss the cumulative effect of noise generated by this project with noise generated by recreational boating in the area, military activities offshore (including but not limited to testing and training activities associated with the Point Mugu Sea Range and the Southern California Operations Area range complex), or oil and gas exploration and development activities off the coast. Instead, the entire cumulative effects analysis of impacts to marine mammals is limited to three paragraphs, much of which summarizes generic research on noise or gives conclusory statements of non-significance. No frequency levels or decibel numbers specific to this project area are provided, no analysis of sound propagation in this area is attempted, and no attempt is made to account for the way noise from these various sources will overlap.

A thorough cumulative impacts analysis is especially important to understanding the harm that may be caused by undersea noise generated by the proposed project. In reporting that there is "now compelling evidence implicating anthropogenic sound as a potential threat to marine mammals" at both the "regional and ocean scale levels," one of the most prominent scientific bodies studying the status of whale populations worldwide, the

⁹ See Wignall, D. and M. Womersley, "Shipping Volumes, Routings and Associated Trends." (British Maritime Technology Asia Pacific, Singapore, 2004). Presentation given at *Shipping Noise and Marine Mammals*, May 17, 2004. Arlington, Virginia, USA (available at <http://www.shippingnoiseandmarinemammals.com/NOAAMaterials.cfm>).

¹⁰ Shiva Polefka, "Anthropogenic Noise and the Channel Islands National Marine Sanctuary: How Noise Affects Sanctuary Resources, and What We Can Do About It," at 13 (Santa Barbara: September 2004).

Scientific Committee of the International Whaling Commission, has recently stressed the significance of cumulative effects from acoustic activities. International Whaling Commission, Report of the Scientific Committee to the International Whaling Commission, at Annex K § 6.4 (2004). The Committee found that evidence of increased sound from several different sources, including military sonar, ships and seismic activities, was “cause for serious concern.” *Id.* at § 12.2.5.1. The Committee also noted “the potential for cumulative or synergistic effects of sounds . . . with non-acoustic anthropogenic stressor.” *Id.*

These concerns highlight the importance of considering not just the cumulative effects of various sources of noise on the natural resources of the area, but also the synergistic effects of acoustic impacts together with other environmental stressors. Thus, the DEIS/EIR must also consider noise impacts in light of current and reasonably foreseeable future environmental stressors such as chemical and biological pollution, habitat degradation, fishing bycatch, and ship strikes. Only by analyzing these impacts together – by considering, for example, how they may cumulatively compromise biologically important activities by elevating stress, masking relevant sounds, and altering behavior – can the decisionmakers and the public reach a full understanding of the environmental consequences of this proposed project. The DEIS/EIR’s cumulative impacts analysis falls woefully short of this standard.

E. The Proposed Mitigation Measures for Undersea Noise Are Inadequate

The DEIS/EIR identifies two mitigation measures to lessen the impact of project noise on marine mammals, both proposed by the applicant. *See* DEIS/EIR at 4.7-49, 54. In a nutshell, the mitigation measures consist of (1) limiting construction phase operations to summer and fall, when gray whales are not migrating past the site, and (2) requiring marine mammal observers on board construction- and operation-phase vessels. These two mitigation measures are insufficient for at least the following reasons.

First, for the reasons stated above, the DEIS/EIR greatly underestimates the impacts of noise on marine resources, especially the cumulative impact of this noise with other anthropogenic noise in the area. Because the DEIS/EIR fails to analyze these impacts sufficiently, it fails to find significant environmental impacts where they exist and, consequently, fails to identify measures to mitigate those environmental impacts. For example, in concluding that there are no significant cumulative impacts of this project together with other vessel noise in the area, the DEIS/EIR fails to discuss or take into account the heavily-used shipping lanes just two nautical miles from the project site. *See supra* at section I.D; DEIS/EIR at 4.20-18-19. Once this oversight is corrected, it may become apparent that additional construction- and operation-phase mitigation measures are required.

Second, the mitigation measures themselves are ineffective. While we applaud the decision to avoid construction-phase activities during gray whale migration season and believe that such seasonal restrictions are absolutely necessary to prevent interference with the ongoing recovery of this once-endangered and iconic population of animals, we note that gray whales are just some of the many marine mammals and other marine resources in the project area that are highly sensitive to man-made noise. Yet noise impacts from year-round operations (including noise from LNG vessels and the FSRU) and noise impacts from

construction operations during the summer and fall remain essentially unmitigated under the proposed scheme.

This is because the second mitigation measure, referred to as “AMM BioMar-9b,” is toothless. Though it requires “two qualified marine monitors to provide a 360-degree view and watch for and alert vessel crew of the presence of marine mammals during construction activities,” it does not require that crews respond to the presence of marine mammals with any *action* aimed at lessening noise impacts. DEIS/EIR at 4.7-49. When whales are sighted, for example, monitors are instructed to “*request*” that vessel operators remain 1,000 feet away from the whales—but nothing in the protocol requires operators to stay outside that zone. Nor does the protocol require work to stop or lessen when whales are sighted, meaning that noise generation would continue—even if that noise is certain to have significant impacts outside the suggested 1,000-foot exclusion zone. Likewise, although monitors have “the *authority*” to stop work when marine mammals are in danger, nothing mandates or requires them to do so. *Id.* These toothless provisions violate CEQA’s requirements that mitigation measures “must be fully enforceable.” CEQA Guidelines section 15126.4.

The protocol’s application to pipe-laying operations is also flawed, and it appears directed only at avoiding collisions, not noise impacts. Though monitors are required on board pipe-laying vessels, their only mandate is to take certain actions “if a collision is likely . . . so that appropriate actions can be taken to avoid collisions.” DEIS/EIR at 4.7-50. Nothing in the protocol is aimed at lessening construction noise when whales or other marine mammals, sea turtles, or other sensitive resources are nearby.

Common-sense and effective mitigation measures exist to lessen the impact of construction and operation noise on marine resources. These include employing quiet-ship technology on all construction vessels, requiring meaningful operation restrictions in the presence of marine mammals, ceasing operations when sea and weather conditions prevent effective visual monitoring, and many other feasible measures. CEQA requires that the DEIS/EIR discuss feasible mitigation measures, as well as the basis on which some measures are selected over more effective ones. CEQA Guidelines section 15126.4. A revised DEIS/EIR is therefore required to improve the discussion of mitigation measures for undersea noise.

II. The DEIS/EIR Fails To Adequately Analyze and Mitigate the Significant Air Quality Impacts of the Project

The DEIS/EIR estimates that operation of the Project alone will generate every year over 187 tons of oxides of nitrogen (NOx), 50 tons of reactive organic compounds (ROC), 162 tons of carbon monoxide (CO), and nearly 15 tons of fine particulate (PM10).¹¹ The projected levels of NOx and ROC trigger a conformity analysis under the Clean Air Act, DEIS/EIR, at 4.6-10-11, and are considerably above the significance threshold levels for NOx and ROC in Ventura County (which has a significance threshold of 25 tons per year for

¹¹ As discussed below, the only emissions estimates provided in the DEIS/EIR incorporate emissions reductions from proposed mitigation measures.

NOx and ROC) and Los Angeles County (which has a significance threshold of 10 tons per year NOx and ROC). *See id.* at 4.6-4.¹²

Emissions of NOx and ROC interact with sunlight to produce ozone, or smog. Smog contributes to decreased lung function, asthma, and chronic respiratory illnesses such as emphysema and chronic bronchitis. Further, PM10 can travel deep into the lungs, and result in impaired lung function, chronic respiratory illnesses, and premature death. As discussed below, a careful review of the DEIS/EIR reveals that the document fails to adequately analyze and mitigate the air quality impacts from the Project.

A. The DEIS/EIR' Analysis of Air Quality Impacts is Inadequate

1. The DEIS/EIR Fails to Quantify the Emissions Generated From the Construction and Operation of the Project

The only emissions estimates provided in the DEIS/EIR incorporate emissions reductions from the document's purported mitigation measures. *See* DEIS/EIR at Tables 4.6-2 and 4.6-3; *see also e.g., id.* at 4.6-13 (noting that mitigation measures for construction emissions "[have] been accounted for in these emissions estimates in Table 4.6-2"); *id.* at 4.6-14 (noting that use of best available control technology to limit stationary source emissions "is accounted for in Table 4.6-3"). This is improper for several reasons. First, failing to disclose the total emissions generated by the Project *before* mitigation deceptively minimizes the Project's significant air quality impacts and precludes the public from understanding the full magnitude of the Project. Second, it precludes the public from determining whether the DEIS/EIR properly quantified emissions from the Project. Third, it requires the public to "trust" that the DEIS/EIR made the correct emissions reductions based on the mitigation measures proposed, and properly concluded that all air quality impacts could be mitigated to a level "less than significant" or "Class III." *See id.* at ES-44-45. Indeed, without the ability to compare data reporting the total emissions generated by the Project to data reporting total emissions after mitigation, the public cannot evaluate whether the document overestimated the efficacy of its mitigation measures. This oversight alone mandates a revised DEIS/EIR.

2. The DIER/EIS Underestimates Emissions Impacts

The DEIS/EIR provides little, if any, data on how construction or operational emissions estimates were calculated. Moreover, a close examination of the estimates provided reveals that the DEIS/EIR underestimates emissions for generators, submerged combustion vaporizers (SCV), vessels, and tug boats.

For example, the DIER/EIS contemplates using main generators manufactured by Wartsila, and projects NOx emissions from the use of such equipment to be 13.82 tons per year (after mitigation). *See id.* at Table 4.6-3. However, we believe that the emissions from these engines are seriously understated, by at least 50%, and request that the DEIS/EIR be revised to include precise calculations of how these emissions were calculated (prior to mitigation), and specify all assumptions made for this analysis. The DEIS/EIR must include accurate and documented emissions from this source category.

¹² Ventura County is designated as a severe nonattainment area for ozone (O3), and exceeds the State's PM10 air quality standard. Los Angeles County is designated as a nonattainment area for O3, PM10 and CO.

Further, the projected emissions from the use of SCVs seem particularly low, especially given the limited mitigation measures proposed to control emissions from this source. *See id.* at Table 4.6-3; 4.6-14. Accordingly, the DEIS/EIR should be revised to explain how emissions were quantified for this source, what emissions factors were used, what assumptions were made, and what reductions were assumed for the mitigation.

Moreover, without further data substantiating the DEIS/EIR's assumptions regarding vessel and tugboat emissions, the document appears to underestimate emissions from these sources as well. The DEIS/EIR states that all LNG carriers supplying the FSRU will "be fueled solely with LNG." *Id.* at 4.6-16. While we are pleased that the Project proponent is prepared to fuel its LNG carriers with 100% LNG, this measure must be included as a specific element of the Project (and not just an assumption) in order to take full credit for this mitigation measure.

In addition, the DEIS/EIR states that "[t]he emissions calculations for supply and support vessels are based on the use of low-sulfur diesel (California diesel) or natural gas, when feasible." *Id.* However, the use of such fuels by supply boats and tug boats is not a listed mitigation measure for the Project, *see id.* at 4.6-12, and the DEIS/EIR does not state how the applicant intends to guarantee the use of these specified fuels. In fact, the use of the phrase "when feasible" suggests that the use of cleaner fuels is not guaranteed. The use of low sulfur diesel fuel or natural gas by all supply and support vessels is an important mitigation measure, and we urge the DEIS/EIR to incorporate this measure as an express element of the Project. Indeed, CARB estimates that using even 3,000 part per million (ppm) sulfur instead of the traditional 27,000 ppm sulfur bunker fuel will yield approximately a 90 percent reduction in SOx emissions, and a 63 percent reduction in PM emissions. *See Harboring Pollution: Strategies to Clean Up U.S. Ports*, at 27 (a copy of the report is enclosed). However, if the use of low-sulfur diesel or natural gas by vessels and tug boats is *not* made a required element of the Project, then the emissions estimates for these sources must be revised to reflect the use of bunker fuel, which is more commonly used, and which the DEIS/EIR acknowledges is more polluting. *See* DEIS/EIR at 4.6-16.

Lastly, to justify the DEIS/EIR's low SO2 air emissions estimates, the document states that the Project's LNG will be "virtually sulfur-free." *See id.* at 4.6-14. Again, use of "sulfur-free" LNG is commendable, but in order to base emissions estimates on this level of sulfur content, the DEIS/EIR needs to contain documentation to substantiate this assertion, and to make this a specific mitigation measure of the Project.

3. The DEIS/EIR Fails to Discuss the Project's Air Quality Impacts on the Region Under the Jurisdiction of the South Coast Air Quality Management District

The DEIS/EIR specifies that the Project will be physically located offshore of the coast of Ventura County and Los Angeles County. *See id.* at 2-2. The DEIS/EIR also specifies that emissions from the Project will be generated in both Los Angeles and Ventura counties, *see id.* at 4.6-4, and that prevailing northwesterly sea winds in the region will likely impact the South Coast Air Basin air shed. *See id.* at 4.1-12. However, the DEIS/EIR fails to fully discuss the Project's air quality impacts on the South Coast Air Basin. Further, while the Project will fall subject to "off shore" rules, we are concerned that it is escaping mitigation that would otherwise apply to on-shore projects. These rules that would

otherwise apply should be fully discussed, and the DEIS/EIR should discuss whether any of the mitigation in these rules should be applied to this Project.

B. The DEIS/EIR's Consideration of Mitigation Measures for Air Quality Impacts is Inadequate

1. The DEIS/EIR Improperly Defers Mitigation

To conclude that construction and operational air quality impacts will be mitigated to a level "less than significant," the DEIS/EIR relies almost entirely on measures set forth in the "conformity analysis" that has not yet been conducted, offset requirements "to be negotiated," and the implementation of a construction emissions plan "to be developed." See DEIS/EIR at 4.6-13 - 4.6-21. The DEIS/EIR's deferral of the formulation of mitigation is improper. See, e.g., *Sundstrom v. County of Mendocino*, 202 Cal. App. 3d 296, 307 (1988).

In fact, the deferral of mitigation is particularly egregious here because the document assumes that Project emissions will be mitigated to a level "less than significant." See DEIS/EIR at Table ES-1. In *Sundstrom*, the court held that a negative declaration was insufficient because the lead agency based its environmental review on the presumed success of mitigation measures that had not been formulated at the time of project approval, and found that the agency had no basis for finding that the project's impacts will be less than significant. See *id.* at 306-7. Like the environmental document in *Sundstrom*, the DEIS/EIR is similarly inadequate.

2. The Mitigation Measures Proposed in the DEIS/EIR are Inadequate

The DEIS/EIR's analysis of air quality mitigation measures is inadequate for several reasons. First, the DEIS/EIR proposes as mitigation that the applicant comply with offsets negotiated with USEPA Region IX, and offset requirements negotiated with the VCAPCD new source review rule. See DEIS/EIR at ES-22, 4.6-15. However, the DEIS/EIR fails to include any discussion of the level of offsets required or the kind of offsets that will be obtained to mitigate impacts from the Project. This must be resolved and discussed in the DEIS/EIR before the Project is considered for approval.

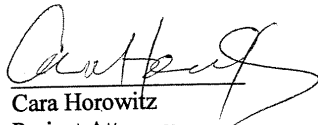
Second, additional feasible mitigation measures exist that could further mitigate stationary source emissions. For example, the DEIS/EIR states that "regulated pollutants (including criteria and hazardous) could be emitted above regulatory standards for a long term during normal operations for the FSRU." *Id.* at 4.6-14. In response, the document proposes to address this impact by using selective catalytic reduction (SCR) to control NOx emissions generated by the primary internal combustion engines, and catalytic oxidation to control CO and ROC. See *id.* at 4.6-14. While these are effective technologies for the reduction of pollution, the document specifies that for SCV, only low-NOx burners would be used to minimize NOx formation. *Id.* SCR should be used to control NOx emissions from SCVs as well.

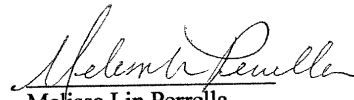
III. Conclusion

The decision to construct and operate California's first offshore LNG import facility should not be taken lightly. Under NEPA and CEQA, the decision must not be taken without first ensuring that both the public and decisionmakers have the information they need to make an informed choice about the project. For all the reasons discussed here and in the referenced and incorporated EDC comment letter, the DEIS/EIR that has been produced for this project fails to satisfy this standard. We therefore strongly urge the USCG, MARAD and CSLC to revise this document and allow the public sufficient time to provide written comments and testimony at a public hearing regarding the revision. In addition, we reiterate our call, expressed in our letter of December 8, 2004, for a suspension of the Deepwater Port Act timeline for the Project in order to allow government agencies adequate time to gather essential information missing from the DEIS/EIR.

Thank you for your consideration of these comments.

Very truly yours,


Cara Horowitz
Project Attorney


Melissa Lin Perrella
Project Attorney

Encl. (hard copy only)

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To view the responses to this letter, go to "Index--Read this First" and select "2006 Letters--Form Letter."

April 19, 2006

Dwight Sanders
State lands commission,
100 Howe Avenue
Suite 100 South
Sacramento California 95825-8202

Re: Stop Cabrillo Port LNG

Dear Mr. Sanders,

Please stop Cabrillo port LNG industrial plant from progressing any further in the permit process. California law prohibits industrial intrusion on highly scenic areas. The last remaining wild areas on the Southern California Coast will be permanently despoiled if this industrial plant is installed. In fact over 10 national parks, national recreation areas, state, city and county parks will be despoiled. This would forever impact the quality of life of the areas residents and negatively impact the millions of visitors who come to hike and enjoy the seashore. In addition, federal and state governments own studies show that this project would:

- result in both short term and long term adverse impacts to the coast and it's residents.
- Increase smog levels (tons of pollutants spewing directly upwind from our houses, beaches and hiking trails.
- contain 14 story high pollution spewing industrial towers with lines of support ships which forever will be our new horizon. This towers will be brightly lit at night being a 24 hour eye sore.
- harbor the possibility of a 14 mile wide explosive flash fire due to an accident of terrorist attack.
- be visible from all elevations in malibu from downtown Malibu all the way to Port Hueneme.
- require a "security zone" of 2.3 miles around it. (to protect from terrorism, accidents etc) which is in the same shipping channel where 10,000. container ships and oil tankers use annually.

There are many more negative impacts than the above "official" ones disclosed by the federal and state study.

PLEASE do not allow this to go forward. We, the citizens of Southern California will fight this project until it is derailed. Our money and time can be spent on projects that truly will improve the quality of life in Southern California rather than just provide an opportunity for foreign Companies to sell us gas that they and we do not need.

Sincerely,

TESSA PLATNER

6463 ZUMAVIEW PL. #166

Malibu CA 90265 |

Attachments: LNG Proposal Comments.pdf

From: Diane Pleschner-Steele [mailto:dplesch@earthlink.net]

Sent: Friday, May 12, 2006 5:10 PM

To: BHPRevisedDEIR@slc.ca.gov

Cc: sanderd@slc.ca.gov

Subject: Comments on Proposed BHP Cabrillo Port Revised Draft EIR

Dear Mr. Sanders and Commissioners,

Please consider the attached letter expressing the concerns of California's historic wetfish industry re: the proposed LNG project.

I am pasting the contents of the letter below, and attaching the document to the end of this email submission.

We appreciate your serious consideration of our concerns.

Sincerely,

Diane Pleschner-Steele, Executive Director

California Wetfish Producers Association

May 8, 2006

Dwight E. Sanders

California State Lands Commission

100 Howe Avenue, Suite 100-South

Sacramento, CA 95825

RE: Comments on Revised Draft EIR Cabrillo Port LNG Deepwater Port Project

Dear Mr. Sanders,

These comments are submitted on behalf of the California Wetfish Producers Association, representing the views of fishermen and processors in southern California and Monterey who harvest and process wetfish, including sardines, mackerels and market squid.

Californias wetfish industry represents, on average, 80 percent or more of the total volume of seafood produced commercially in California, with a value-added worth estimated at more than \$100 million annually. This is an historic industry of continuing importance, economically and culturally, in coastal fishing communities both in Monterey and southern California, including San Diego and San Pedro as well as Channel Islands, Ventura and Port Hueneme.

It is important to acknowledge the importance of this industry to the State, and to implement policies in accordance with Californias ocean protection strategies, including the Governors ocean action plan, one goal of which is support for Californias ocean-dependent industries, including commercial fishing. After reviewing the revised draft EIR for the Cabrillo Port LNG Deepwater Port Project, however, we have serious concerns about the inadequacies of the DEIR in describing the physical and socio-economic impacts in the project area, as well as the potential for disruption of wetfish fishery harvest and offloading activities in the region.

For example, according to a recent vessel call report for Port Hueneme, as many as 400 or more commercial fishing vessels have utilized the port annually to offload their catch in the past six years; 333 vessels utilized the port in 2004. Several CWPA members operate offloading facilities at the port. Recently these companies invested close to \$2 million to improve the dock and provide shoreside power.

After investing this sizeable amount to improve offloading facilities, fish processors and fishermen alike are concerned over the potential for disruption of offloading procedures to make way for ingress and egress of support tugs and crew boats, which are estimated to

G018-1

Thank you for the information.

G018-2

Table 4.3-1 in Section 4.3.1 contains updated information from the Port of Hueneme about vessel traffic in and out of the Port.

G018-3

The Project has been modified since issuance of the March 2006 Revised Draft EIR. See Section 1.4.2 for a summary of Project changes. The Applicant has reduced the number of LNG carriers that would call on the FSRU annually from a maximum of 130 to a maximum of 99. As a result, the number of LNG carriers docking at the FSRU weekly would be reduced from an average of two to three per week to one to two per week. Since a crew vessel would meet each LNG carrier, the number of crew vessel trips to and from Port Hueneme would also change. See Section 4.3 for more information on this topic.

Impact MT-7 in Section 4.3.4 contains information on the Project's potential impacts on fish processing at the Port of Hueneme and mitigation measures to address such impacts.

G018-1

According to the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA), economic or social effects are to be considered when there is a linkage to a physical effect. Under NEPA, analysis should be restricted to those social or economic factors that are interrelated to the natural or physical environment and may be affected by the range of alternatives considered. In addition, section 15131 of the State CEQA Guidelines states that "economic or social information may be presented in an EIR in whatever form the agency desires." Section 4.16 of the EIS/EIR is written in accordance with both NEPA and the CEQA requirements and guidance.

G018-2

The Council on Environmental Quality's NEPA Regulations require Federal agencies to "identify environmental effects and values in adequate detail" (40 Code of Federal Regulations [CFR] 1501.2) in their analyses and define the term "effects" to include social and economic effects, among others (40 CFR 1508.8). The NEPA regulations define the human environment as the natural and physical environment and the relationship of people with that environment.

G018-3

Section 15131(a) of the State CEQA Guidelines states that "Economic or social effects of a project shall not be treated as significant effects on the environment. An EIR may trace a chain of

cause and effect from a proposed decision on a project through anticipated economic or social changes resulting from the project to physical changes caused in turn by the economic or social changes. The intermediate economic or social changes need not be analyzed in any detail greater than necessary to trace the chain of cause and effect. The focus of the analysis shall be on the physical changes."

transit up to a maximum 10 trips per week more than once a day. Seafood processing companies have sought to expand offloading facilities at the port; however, they have been informed that no additional space is available. Yet the EIR states that space *is* available in the harbor to develop a dedicated berth with associated infrastructure and warehousing, as well as power, for the LNG support tug and crew boat. The significant amount of vessel traffic around the Port proposed to be generated by the support tugs is likely to interrupt commercial fish offloading operations significantly. This potential socio-economic cost of this disruption should be quantified in the DEIR. CWSA members also are concerned about the potential for disruption of fishing activities on fishing grounds near the proposed LNG deepwater port as well as in transit between fishing grounds and harbors. The west Tanner Banks is an important fishing grounds. The proposed LNG carrier route transits directly through the grounds four to six times per week, with a maximum of 208-360 transits a year. The proposed security zone around the LNG carriers no vessel allowed within 1000 yards of the carrier vessel stern and bow and 500 yards on either side amounts to potentially significant disruption to fishing activities in the area of Tanner Banks. These impacts should be included and evaluated in the DEIR, yet no mention was found. Likewise, significant restrictions are proposed for the 500-meter Safety Zone proposed to be implemented around the floating storage and regasification unit (FSRU) located 12 nm offshore. Seasonal fishing operations occur in the vicinity, as well as traffic to and from other fishing grounds. Yet the DEIR stated that no fishing grounds are located in the proposed safety zone area. This statement needs correction and analysis of fishing vessel seasonal use and traffic patterns. The risks and hazards posed by natural gas powered tug boats and crew boats also are of major concern to CWSA members who operate and offload in Port Hueneme. No mention or evaluation of this risk was found in the DEIR, and a detailed analysis should be included. Clearly, the DEIR lacks detailed description and analysis of the full potential socio-economic impacts, as well as safety impacts, to fishing operations in the area and in Port Hueneme, resulting from the proposed Cabrillo Port LNG Deepwater Port project. We would greatly appreciate the inclusion of the details we enumerated, including potential mitigations to offset the socio-economic impacts of the disruptions we described. We also appreciate your serious consideration of the importance of this historic fishery, and urge you to make every effort to avoid negative consequences to the wetfish fishery and commercial fishing operations when deliberating the Cabrillo LNG proposal and others to follow. We understand there are other LNG proposals that are coming forward that do not require shore-based support vessels. LNG operations conducted entirely offshore would minimize both the safety risks to harbors and the negative impacts to fisheries caused by traffic congestion. These other alternatives should be included in the scope of this EIR and analyzed relative to the Cabrillo proposal. Thank you very much for your attention. Sincerely,
Diane Pleschner-Steele
Executive Director

G018-3 Continued

G018-3
Continued

G018-4

The Project has been modified since issuance of the March 2006 Revised Draft EIR. See Section 1.4.2 for a summary of Project changes. The number of LNG carrier transits has been reduced, as discussed in Section 4.3.1.3. The Tanner Banks fishing grounds is roughly 65 to 70 NM south of the proposed FSRU location. As discussed in Section 4.3.4 under Impact MT-2, the USCG does not establish security zones for LNG carriers that are beyond 12 nautical miles from shore; the LNG carrier routes are farther than 12 NM from shore. The proposed LNG carrier route passes through a portion of CDFG Catch Block 872, in the northwestern portion of the Tanner Banks fishing ground; fishers would not be restricted from this area but would be expected to avoid LNG carriers in accordance with normal rules of the road and vice versa. Section 4.3.1.4 contains information on vessel avoidance collision measures for LNG carriers.

G018-4

G018-5

G018-5

Impact SOCIO-1 in Section 4.16.4 contains information on potential Project impacts on commercial fishers due to exclusion from fishing grounds at the FSRU and measures to address potential impacts. The analysis is based on publicly available data on fishing grounds.

G018-6

G018-7

G018-6

The Project has been modified since issuance of the March 2006 Revised Draft EIR. See Section 1.4.2 for a summary of Project changes. Tugboats and the crew/supply vessel would have diesel engines equipped with air pollution control technology. Natural gas-powered tugs and crew vessels are no longer proposed by the Applicant for use in the proposed Project.

G018-8

G018-7

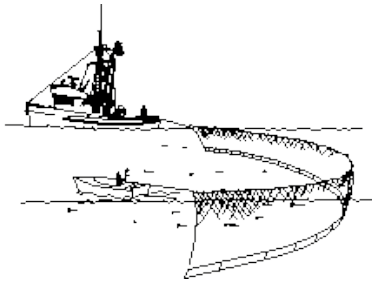
Sections 4.3.4 and 4.16.4 contain information on potential Project impacts on fishing operations at the Port of Hueneme and on commercial fishers and mitigation measures to address potential impacts. See the response to the previous comment with respect to the fuel source of the Project support vessels.

See the response to Comment G018-3.

G018-8

Thank you for the information. The FSRU would be located approximately 12.01 nautical miles (13.83 miles) offshore, which is farther from shore than the coastwise traffic lanes. In addition,

under normal operating conditions, the LNG carriers would not come closer to shore than the FSRU, at which they would dock.



CALIFORNIA WETFISH PRODUCERS ASSOCIATION

Representing California's Historic Fishery

G018-9

This letter is a duplicate of the preceding comment letter sent in the body of the email message. See the responses to Comments G018-1 through G018-8.

May 8, 2006

Dwight E. Sanders
California State Lands Commission
100 Howe Avenue, Suite 100-South
Sacramento, CA 95825

RE: Comments on Revised Draft EIR – Cabrillo Port LNG Deepwater Port Project

Dear Mr. Sanders,

These comments are submitted on behalf of the California Wetfish Producers Association, representing the views of fishermen and processors in southern California and Monterey who harvest and process "wetfish", including sardines, mackerels and market squid. California's wetfish industry represents, on average, 80 percent or more of the total volume of seafood produced commercially in California, with a value-added worth estimated at more than \$100 million annually. This is an historic industry of continuing importance, economically and culturally, in coastal fishing communities both in Monterey and southern California, including San Diego and San Pedro as well as Channel Islands, Ventura and Port Hueneme.

It is important to acknowledge the importance of this industry to the State, and to implement policies in accordance with California's ocean protection strategies, including the Governor's ocean action plan, one goal of which is support for California's ocean-dependent industries, including commercial fishing. After reviewing the revised draft EIR for the Cabrillo Port LNG Deepwater Port Project, however, we have serious concerns about the inadequacies of the DEIR in describing the physical and socio-economic impacts in the project area, as well as the potential for disruption of wetfish fishery harvest and offloading activities in the region.

For example, according to a recent vessel call report for Port Hueneme, as many as 400 or more commercial fishing vessels have utilized the port annually to offload their catch in the past six years; 333 vessels utilized the port in 2004. Several CWPA members operate offloading facilities at the port. Recently these companies invested close to \$2 million to improve the dock and provide shoreside power. After investing this sizeable amount to improve offloading facilities, fish processors and fishermen alike are concerned over the potential for disruption of offloading procedures to make way for ingress and egress of support tugs and crew boats, which are estimated to transit up to a maximum 10 trips per week – more than once a day.

Seafood processing companies have sought to expand offloading facilities at the port; however, they have been informed that no additional space is available. Yet the EIR states that space *is* available in the harbor to develop a dedicated berth with associated infrastructure and warehousing, as well as power, for the LNG support tug and crew boat. The significant amount of vessel traffic around the Port proposed to be generated by the support tugs is likely to interrupt commercial fish offloading operations significantly. This potential socio-economic cost of this disruption should be quantified in the DEIR.

G018-9

G018-9
Continued

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The risks and hazards posed by natural gas powered tug boats and crew boats also are of major concern to CWPA members who operate and offload in Port Hueneme. No mention or evaluation of this risk was found in the DEIR, and a detailed analysis should be included.

Clearly, the DEIR lacks detailed description and analysis of the full potential socio-economic impacts, as well as safety impacts, to fishing operations in the area and in Port Hueneme, resulting from the proposed Cabrillo Port LNG Deepwater Port project. We would greatly appreciate the inclusion of the details we enumerated, including potential mitigations to offset the socio-economic impacts of the disruptions we described.

We also appreciate your serious consideration of the importance of this historic fishery, and urge you to make every effort to avoid negative consequences to the wetfish fishery and commercial fishing operations when deliberating the Cabrillo LNG proposal and others to follow. We understand there are other LNG proposals that are coming forward that do not require shore-based support vessels. LNG operations conducted entirely offshore would minimize both the safety risks to harbors and the negative impacts to fisheries caused by traffic congestion. These other alternatives should be included in the scope of this EIR and analyzed relative to the Cabrillo proposal.

Thank you very much for your attention.

Sincerely,

Diane Pleschner-Steele
Executive Director

May 5, 2006

The Honorable Steve Westly, Chair
State Controller

The Honorable Cruz Bustamante, Member
Lieutenant Governor

Mr. Michael Genest, Member
Director, Department of Finance

California State Lands Commission
100 Howe Avenue, Suite 100-South
Sacramento, California 95825-8202

Dear Chair Westly and Commissioners Bustamante and Genest:

As a former council member of the City of Oxnard for 8 years serving as its Mayor pro Tem for 2 years, I am very proud to call this community my home. I have lived here for more than 30 years and have always worked hard to ensure that our quality of life is maintained. Today, I continue to serve my community in my third term as an elected commissioner for the Port of Hueneme, Oxnard Harbor District.

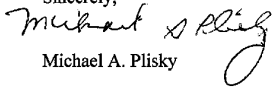
I am writing today in support of building a liquefied natural gas facility to help meet the growing demand for energy in California generally and the Ventura County region specifically. Liquefied natural gas is safe and is the cleanest fossil fuel. I believe that liquefied natural gas can be an essential part of the solution in meeting California's energy needs.

Here at the Port of Hueneme, Oxnard Harbor District, I want to be a part of the solution, so I am prepared to support location of a liquefied gas terminal off of our coastline provided certain critical conditions are met. I could support a liquefied natural gas facility that is located well offshore in order to ensure the safety of my constituents. I recognize that liquefied natural gas is inherently safe, but locating the terminal at a distance can only increase the level of safety. I also believe that the terminal should have the smallest environmental footprint practical. This will protect our coastline, our marine life and our wonderful vistas of the Pacific Ocean. Finally, I believe that it should be incumbent upon the builder of the facility to demonstrate that what they are building is safe. We don't need any experiments of our shores.

Recently, the California State Lands Commission released a revised draft environmental impact report on BHP Billiton's Cabrillo Port proposal. Upon review, I believe this report addresses many of the initial issues that I had regarding potential impacts that this project may have had on the environment, public safety and socially economic factors. Based on the adequate mitigation measures and safeguards outlined in this report, I believe the potential for accidents and environmental damage (both onshore and at sea) is greatly minimized.

For these reasons, I support BHP Billiton's Cabrillo Port as the most responsible solution for my community and our state. The facility will use state-of-the-art facilities and proven technology to deliver safe, reliable and affordable natural gas to the Port of Hueneme, Oxnard Harbor District, to Ventura County and to all of California. I urge you to move forward with BHP Billiton's application for a land lease for its subsea pipeline to deliver the needed natural gas supplies into our state.

Sincerely,



Michael A. Plisky

cc: Paul D. Thayer, Executive Officer

V251-1

Your statement is included in the public record and will be taken into account by decision-makers when they consider the proposed Project.

V251-2

Section 4.2 and Appendix C contain information on public safety.

V251-3

Sections 4.6.4 and 4.18.4 discuss the Project's potential impacts on air and water quality. Sections 4.7.4 and 4.8.4 discuss the Project's potential effects on the marine and terrestrial environments.

Section 4.4 and Appendix F contain information on visual resources, impacts, and mitigation. Appendix F describes how visibility from various distances was evaluated and provides additional simulations prepared for viewpoints at elevated sites along the Malibu coastline and inland areas.

V251-1

V251-2

V251-3

V251-4

V251-5

V251-6

V251-4

Section 2.1 contains information on design criteria and specifications, final design requirements, and regulations governing the construction of the FSRU. The Cabrillo Port must be designed in accordance with applicable standards, and the U.S. Coast Guard has final approval. Section 4.2.4 contains information on Federal and State agency jurisdiction and cooperation. The Deepwater Port Act specifies regulations that all deepwater ports must meet; Section 4.2.7.3 contains information on design and safety standards for the deepwater port. Section 4.2.8.2 contains information on pipeline safety and inspections. Impact EJ-1 in Section 4.19.4 addresses additional pipeline design requirements in areas of low-income and minority communities. The EIS/EIR's analyses have been developed with consideration of these factors and regulations and in full conformance with the requirements of NEPA and the CEQA.

V251-5

See the responses to Comments V251-2 and V251-3. Section 4.16.4 discusses the potential socioeconomic impacts.

V251-6

The lead Federal and State agencies share the responsibility to ensure that mitigation measures are implemented. Table 6.1-1 in Chapter 6 is the basis for the Mitigation Monitoring Program, which would be implemented, consistent with section 15097(a) of the State CEQA Guidelines, to ensure that each mitigation measure is

incorporated into Project design, construction, operation, and maintenance activities.

From: Mary and Tom [55mary@verizon.net]
Sent: Friday, April 28, 2006 9:40 PM
To: BHPRevisedDEIR@slc.ca.gov
Subject: LNG Terminal:

Dear Sirs;

My wife and I are residents of the City of Malibu Ca., and have lived here for 32 years.

After due consideration we both feel that an LNG Terminal , with the numerous potential risks to the fragile and populated coastline of Malibu should not be aloud.

If it were determined that such an instillation is vital to the Welfare and Economy of the USA, we are certain that a much more appropriate location could be found on our Shorelines.

Sincerely

Mary H. & Thomas C. Polliard
310-457-3287

P030-1

Your statement is included in the public record and will be taken into account by decision-makers when they consider the proposed Project.

P030-2

Section 3.3.7 contains information on the location selection. The deepwater port would be approximately 12.01 nautical miles (13.83 miles) offshore, as shown on Figure ES-1. Section 4.2.7.6 and the Independent Risk Assessment (Appendix C1) contain information on public safety impacts from various incidents at the FSRU. The analysis indicates that the maximum impact distance of an accident would involve a vapor cloud dispersion extending 6.3 nautical miles (7.3 miles) from the FSRU. The consequences of an accident involving LNG transport by carrier and storage on the FSRU would extend no closer than 5.7 nautical miles (6.5 miles) from the shoreline.

P030-1
P030-2

To view the responses to this letter, go to "Index--Read this First" and select "2006 Letters--Form Letter."

April 19, 2006

Dwight Sanders
State lands commission,
100 Howe Avenue
Suite 100 South
Sacramento California 95825-8202

Re: Stop Cabrillo Port LNG

Dear Mr. Sanders,

Please stop Cabrillo port LNG industrial plant from progressing any further in the permit process. California law prohibits industrial intrusion on highly scenic areas. The last remaining wild areas on the Southern California Coast will be permanently despoiled if this industrial plant is installed. In fact over 10 national parks, national recreation areas, state, city and county parks will be despoiled. This would forever impact the quality of life of the areas residents and negatively impact the millions of visitors who come to hike and enjoy the seashore. In addition, federal and state governments own studies show that this project would:

- result in both short term and long term adverse impacts to the coast and it's residents.
- Increase smog levels (tons of pollutants spewing directly upwind from our houses, beaches and hiking trails.
- contain 14 story high pollution spewing industrial towers with lines of support ships which forever will be our new horizon. This towers will be brightly lit at night being a 24 hour eye sore.
- harbor the possibility of a 14 mile wide explosive flash fire due to an accident of terrorist attack.
- be visible from all elevations in malibu from downtown Malibu all the way to Port Hueneme.
- require a "security zone" of 2.3 miles around it. (to protect from terrorism, accidents etc) which is in the same shipping channel where 10,000. container ships and oil tankers use annually.

There are many more negative impacts than the above "official" ones disclosed by the federal and state study.

PLEASE do not allow this to go forward. We, the citizens of Southern California will fight this project until it is derailed. Our money and time can be spent on projects that truly will improve the quality of life in Southern California rather than just provide an opportunity for foreign Companies to sell us gas that they and we do not need.

Sincerely,



Ciel Post
1332 N. Sycamore Ave.
L.A. CA #3
90028

From: Robert Pousman [frostitude@yahoo.com]
Sent: Wednesday, April 19, 2006 2:00 PM
To: BHPRevisedDEIR@slc.ca.gov
Subject: BHP - Billiton LNP Proposal off Malibu Coast

To Whom it May Concern:

I am a physician, citizen and eco-advocate Malibu resident. I will be concise and frank; I adamantly oppose the plans to build a Liquid Natural Gas (LNG) platform off the coast of Malibu. It is wrong on so many levels but most of all it is just more of the same.

We need to get started, *get started* with our progression to energy independence and utilization of renewable resources. The argument that we "aren't there yet" is stale. We need to start and continue to upgrade existing and new facilities as the technology improves.

So the bottom line is that I am opposed and will endorse any measure to keep foreign interests off my coast line and polluting my beaches and waters not to mention killing me with emissions and pollution.

The people of California need your support in defeating this damaging proposal.

I greatly appreciate your time.

Sincerely,

Robert M. Pousman, DO

[Robert Pousman](#)

"The fish always stinks from the head"
- My Mother

New Yahoo! Messenger with Voice. [Call regular phones from your PC](#) and save big.

V016-1

Your statement is included in the public record and will be taken into account by decision-makers when they consider the proposed Project.

V016-2

Section 1.2 discusses dependence on foreign energy sources. Sections 1.2.2, 1.2.3, 1.2.4, 3.3.1, 3.3.2, and 4.10.1.3 contain information on the need for natural gas, the role and status of energy conservation and renewable energy sources, and the California Energy Action Plan.

V016-3

See the response to Comment V016-2. Sections 4.6.4 and 4.18.4 discuss the Project's potential impacts to air and water quality.

V016-1

V016-2

V016-3

LAW OFFICES

NOSSAMAN, GUTHNER, KNOX & ELLIOTT, LLP

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(512) 651-0860

REFER TO FILE NUMBER
270045-0103

May 12, 2006

VIA E-MAIL & U.S. MAIL

Dwight Sanders
State Lands Commission
100 Howe Avenue, Suite 100-South
Sacramento, CA 95825

Re: Comments on the revised Draft Environmental Impact Report for the
Cabrillo Port LNG Deepwater Port Project
(State Clearinghouse # 2004021107)

Dear Mr. Sanders:

We represent Centex Homes and hereby submit comments on the revised Draft Environmental Impact Report ("DEIR") for the Cabrillo Port Liquefied Natural Gas ("LNG") Deepwater Port Project ("Project"). While Centex is not opposed to the Project, it is concerned with the proposed "Center Road Pipeline" alignment as shown on Figure 2.4-1 in the DEIR.

Centex is in escrow to purchase several parcels of land in the proposed SouthShore Specific Plan Area. The SouthShore Specific Plan Area is approximately 323 acres of unincorporated land located in southern portion of the City of Oxnard ("City") in the vicinity of Hueneme Road between Edison Drive and Olds Road. The area now consists primarily of flat agricultural fields. However, under the SouthShore Specific Plan, if approved in its present form, the area will be transformed into a residential community with associated public schools, parks and other mixed-use community elements. The alignment of the proposed Center Road Pipeline is located along Hueneme Road between Edison Road and Olds Road, which is within the boundaries of the SouthShore Specific Plan. Centex is concerned that implementation of the proposed Center Road Pipeline alignment may result in significant, and unnecessary, environmental impacts on several of the land uses planned in the SouthShore community.

First, Centex is concerned that the proposed Center Road Pipeline alignment will result in significant impacts to the school sites anticipated within the SouthShore Specific Plan Area. The City's General Plan designates the area as including educational uses, residential, commercial and recreational uses. In addition, Exhibit 1-3: Community Plan, and Exhibit 2-1: Land Plan, identify potential school site locations in the SouthShore Specific Plan. A proposed

P405-1

On February 27, 2004, the Coast Guard, the Maritime Administration (MARAD), and the California State Lands Commission (CSLC) issued a notice of intent and notice of preparation (NOI/NOP) for preparation of a joint environmental impact statement/environmental impact report (EIS/EIR) for the proposed Cabrillo Port Liquefied Natural Gas Deepwater Port. The City of Oxnard issued an NOP for an EIR for the Ormond Beach Specific Plan on September 12, 2005, for development of a 920-acre community that extends from Edison Road on the west to Olds and Arnold Road on the east, West Pleasant Valley Drive on the North and the Pacific Ocean to the South. A Draft EIR for the Ormond Beach Specific Plan Area has not been issued and the specific plan is not yet approved.

The Northern Subarea of the Ormond Beach Specific Plan Area, which is the 323 acres north of Hueneme Road, and which is also referred to as the SouthShore Specific Plan Area, is outside the Oxnard city limits, but is within the City of Oxnard's Sphere of Influence (see Section 4.13.1.3). Section 4.13.1.3 contains information on existing and future sensitive land uses, including proposed schools in the Northern Subarea of the Ormond Beach Specific Plan Area.

The proposed alignment of the Center Road Pipeline along Hueneme Road is adjacent to the southern boundary of the Ormond Beach Specific Plan Area. The Applicant has also incorporated measure AM LU-1 into the proposed Project (see Section 4.13.4). As allowed by existing franchise agreements SoCalGas has with the City of Oxnard, this Applicant measure would align the Center Road Pipeline in the ROW of the future McWane Boulevard, south of Hueneme Road between Edison Drive and Arnold Road, if this routing of McWane Boulevard were to be approved and constructed prior to the construction of the Center Road Pipeline.

P405-2

The comment letter references Exhibit 1-3 and Exhibit 2-1, but they were not attached to the comment letter, and they were not found in the City of Oxnards 2020 General Plan.

P405-1

P405-2

Dwight Sanders
May 12, 2006
Page 2

elementary school site for Ocean View School District ("OVSD") is centrally located in the planned community. A proposed high school site for Oxnard Union High School District ("OUSD") is located in the southeastern portion of the community. Retaining the ability to develop at least the elementary school site is a key component that influences the viability of the SouthShore community and required project approvals.

Concerning the proposed high school site, Centex is in escrow to purchase this land unless OUSD chooses to acquire the site for a high school within the SouthShore Specific Plan Area. A high school site is not mandated for the area; if OUSD does not acquire this site, the SouthShore Specific Plan contemplates that this approximately 55-acre site may be developed with residential, public park and open space uses. However, retaining the ability to develop an elementary school within the boundaries of the SouthShore Specific Plan is critical to satisfy the need for elementary schools capable of serving the students generated by the proposed residential development.

The builders in the SouthShore Specific Plan Area have been working with the OVSD and the OUSD to identify suitable locations for school sites. Existing on-site constraints include: (1) the Southern California Gas Company's 30-inch high pressure gas pipeline that runs along the eastern edge of the site; and (2) the Southern California Edison Company's 220KV overhead transmission lines that form the eastern and northern boundaries of the site. The Center Road Pipeline would present another constraint to the south. The required setbacks from these combined constraints would essentially squeeze the land plan boundaries to such an extent that reasonable development and safe operation of a centrally-placed elementary school site would be highly unlikely under the current land plan.

In addition, California Education Code requires that school districts seeking state funding for construction of a new school or expansion of an existing school conduct a Pipeline Risk Analysis for any buried pipeline operating at or above 80 psi within 1,500 feet of the school site. The Center Road Pipeline would operate well above 80 psi and is aligned within 1,500 feet of the proposed SouthShore school facilities.

The Pipeline Risk Analysis must be completed in accordance with the guidelines and procedures specified in California Department of Education ("CDE") Proposed Standard Protocol for Pipeline Risk Analysis. The CDE guidance provides for three levels of pipeline risk analyses in order of increasing complexity. As preliminarily determined in OVSD's comment letter on these issues, it is likely that the Pipeline Risk Analysis of the Center Road Pipeline would result in a requirement of more than the minimum 1,500 foot setback for a school. If developed, the safety of the SouthShore proposed elementary school would likely be adversely affected due to the distance between the proposed high pressure lines and the school facility.

P405-3

P405-3

Thank you for the information. Figure 2.1-1 identifies the location of the proposed pipeline. Sections 4.13.3 and 4.13.4 contain information on potential impacts on existing and future land uses near the proposed pipeline route and mitigation to address such impacts. As discussed in Section 4.13.2.1, "Consistency with local land use plans must be viewed within the context of the existing franchise agreements that Ventura County and the Cities of Oxnard and Santa Clarita have with SoCalGas. These franchise agreements grant the right, privilege, and franchise for SoCalGas to lay and use pipelines and appurtenances for transmitting and distributing natural gas for any and all purposes under, along, across, or upon public streets and other ROWs."

The design, construction, and operation of natural gas facilities are highly regulated; the U.S. Department of Transportation's (USDOT) Pipeline and Hazardous Materials Safety Administration and the California Public Utilities Commission's Division of Safety and Reliability have jurisdiction over pipelines. Section 4.2.8 discusses the background, regulations, impacts, and mitigation measures for natural gas pipelines. Section 4.2.8.4 describes Project-specific valve spacing and design requirements.

The proposed pipelines would meet standards that are more stringent than those of existing pipelines because they would meet the minimum design criteria for a USDOT Class 3 location. Also, MM PS-4c includes the installation of additional mainline valves equipped with either remote valve controls or automatic line break controls. SoCalGas operates high-pressure natural gas pipelines throughout Southern California.

P405-4

Section 4.13.1.3 contains revised text to clarify the State of California Department of Education's (CDE) criteria for locating schools near pipelines. School site selection standards, Title 5 of the California Code of Regulations section 14010(h), state that school sites shall not be located near an aboveground water or fuel storage tank or within 1,500 feet of the easement of an aboveground or underground pipeline that can pose a safety hazard as determined by a risk analysis study conducted by a competent professional. According to the CDE, the May 2002 draft *Proposed Standard Protocol Pipeline Risk Analysis*, which was prepared under contract for the CDE, has become the de facto acceptable assessment methodology to guide the conduct of such a risk analysis after a school site is selected, even though there is no legal requirement to use it. Section 14010(h) does not prescribe a minimum setback for proposed school sites from natural gas pipelines, and the existence of a pipeline within 1,500 feet of a

proposed school site does not automatically preclude the site from approval. The results of the risk analysis are used to determine the suitability of a proposed school site and would be used to prescribe setback requirements on a case-by-case basis.

Education Code section 17213 prohibits the acquisition of a school site by a school district if the site "contains one or more pipelines, situated underground or aboveground, which carries hazardous substances, acutely hazardous materials, or hazardous wastes, unless the pipeline is a natural gas line which is used only to supply natural gas to that school or neighborhood." The proposed natural gas pipeline does not cross any proposed school site.

P405-4

As stated in Section 4.13.1.3, "[t]o qualify for State school bond funds, school districts must meet standards established by statute and regulation (California Code of Regulations Title 5 Section 14010). These regulations require that the school site 'shall not be located near an above-ground water or fuel storage tank or within 1500 feet of the easement of an above ground or underground pipeline that can pose a safety hazard as determined by a risk analysis study, conducted by a competent professional, which may include certification from a local public utility commission.' The State Department of Education recommends the use of its May 2002 draft *Proposed Standard Protocol Pipeline Risk Analysis* to guide the conduct of such a risk analysis after a school site is selected... While this guidance has not been officially adopted, it is the *de facto* acceptable assessment methodology."

See also the response to Comment P405-3. Section 14010(h) does not prescribe a minimum setback for proposed school sites from natural gas pipelines, and the existence of a pipeline within 1,500 feet of a proposed school site does not automatically preclude the site from approval. The results of the risk analysis are used to determine the suitability of a proposed school site and would be used to prescribe setback requirements on a case-by-case basis.

Dwight Sanders
May 12, 2006
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Therefore, Centex requests that the State Lands Commission select an alternative alignment that does not impose additional constraints on the school sites proposed in the SouthShore Specific Plan.

On pages 4.13-15 and 4.13-16 the DEIR states that “although several potential locations for new or expanded schools have been evaluated, none has been proposed to date.” However, as pointed out in comment letters provided by Hearthside Homes and OVSD, OVSD is in the final stages of processing agreements for school site locations, financing and mitigations. In addition, through meetings on this issue, OVSD has provided a level of information sufficient for the DEIR to consider the potentially significant effects of the Center Road Pipeline alignment on anticipated school sites within the SouthShore Specific Plan Area.

Implementation of the Center Road Pipeline alternative also disrupts the use of the SouthShore Specific Plan property as envisioned in the City’s General Plan by severely limiting the ability of the school districts to comply with Education Code requirements for new school locations. The analysis contained in the DEIR, regarding future school sites proposed by the OVSD, prematurely dismisses the impact of the pipeline alignment by stating that the district already has one high pressure gas line to avoid so avoiding two should not be a problem. CEQA requires the DEIR analysis be supported by substantial evidence. Therefore, Centex requests the DEIR provide additional analysis of the potential significant effect the Center Road Pipeline alignment would have on the school sites shown in the SouthShore Specific Plan.

Centex also has serious concerns regarding the adequacy of the impact analysis provided in the Land Use Section of the DEIR. Section 4.13.3 on page 4.13-30 of the DEIR lists the land use “Significance Criteria” and provides in part that impacts are considered significant if the project: (1) changes the existing or planned use of a piece of property in conflict with zoning or plans; or (2) disrupts the use of adjacent properties, as defined by plan policies.

The present location for the proposed Center Road Pipeline alignment would likely change the planned uses of the proposed SouthShore Specific Plan. While the DEIR states on page 4.13-30 that “approximately 85 percent of the lands adjoining the proposed Center Road Pipeline are in agricultural use,” the DEIR fails to adequately analyze, or recognize, that development of the SouthShore Specific Plan will be significantly affected because such plan will transform the existing agriculture to residential, educational and other mixed-uses.

To avoid the likely significant impacts of the Center Road Pipeline alignment, Centex requests further consideration of the Point Mugu Shore Crossing/Casper Road Pipeline alternative and the Arnold Road Shore Crossing/Arnold Road Pipeline alternative. Both of these alternatives would likely result in less impact to the contemplated land uses of the SouthShore Specific Plan Area while not increasing environmental impacts in other areas. Under these alternatives, moving the pipeline alignment east to Arnold Road avoids adverse impacts to the

P405-5

Your statement is included in the public record and will be taken into account by decision-makers when they consider the proposed Project.

P405-5

P405-6

Thank you for the information. Section 4.13.1.3 contains revised text. The text has been modified to include the ongoing discussions between the school district and Hearthside Homes.

P405-6

P405-7

See the responses to Comment P405-1 and Comment P405-3. A Draft EIR for the Ormond Beach Specific Plan Area has not been issued and the specific plan is not yet approved.

P405-7

P405-8

As stated in Section 4.13.1.3, "SoCalGas has confirmed that there is an existing 8-inch 150 pounds per square inch (psi) gas distribution pipeline already located adjacent to this proposed site [for an elementary school]. Therefore, it appears that the provisions of [Title 5 of the California Code of Regulations] section 14010 need to be addressed by the Ocean View School District regardless of whether the proposed Project is approved, and the District would have to conduct a pipeline risk analysis if it were to pursue this site."

P405-8

P405-9

P405-9

See the response to Comment P405-3.

P405-10

P405-10

A Draft EIR for the Ormond Beach Specific Plan Area has not been issued and the specific plan is not yet approved. Table 4.2-14 contains information on the major laws, regulatory requirements, and plans for public safety applicable for pipeline safety. Appendix C3 contains additional information on design and safety standards applicable to natural gas transmission pipelines. The proposed pipelines would meet standards that are more stringent than those of existing pipelines because they would meet the minimum design criteria for a USDOT Class 3 location. Also, MM PS-4c includes the installation of additional mainline valves equipped with either remote valve controls or automatic line break controls.

P405-11

P405-11

The proposed alignment of the Center Road Pipeline along Hueneme Road is adjacent to the southern boundary of the proposed Ormond Beach Specific Plan Area. The Applicant has also incorporated measure AM LU-1 into the proposed Project (see

Section 4.13.4). As allowed by existing franchise agreements SoCalGas has with the City of Oxnard, this Applicant measure would align the Center Road Pipeline in the ROW of the future McWane Boulevard, south of Hueneme Road between Edison Drive and Arnold Road, if this routing of McWane Boulevard were to be approved and constructed prior to the construction of the Center Road Pipeline.

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SouthShore commercial site and increases the amount of land available to locate a viable elementary school within the specific plan area.

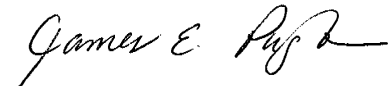
As an additional alternative alignment, Centex requests the DEIR analyze a variation of the Arnold Road Shore Crossing/Arnold Road Pipeline alternative that would be to bring the pipeline onshore at the proposed Center Road Pipeline location at Edison Road and then run it along the future extension of McWane Street to Arnold Road north until it converges with Hueneme Boulevard. This minor alignment adjustment does not appear to result in any specific economic, social or other conditions that would make it infeasible when considering the existing general plan and zoning designations shown in Figure 4.13-3 of the DEIR. Also, the implementation of the proposed South Ormond Beach Specific Plan would result in McWane Street becoming a public road capable of accommodating the LNG pipeline. This recommended modification could substantially reduce adverse impacts to the SouthShore Specific Plan area while retaining key project design features such as the land connection at the Reliant Energy Ormond Beach Generating Station and avoidance of sensitive habitats potentially associated with the other aforementioned alternatives.

Public Resources Code, Section 21002 provides in part that "it is the policy of the state that public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures which would substantially lessen the significant environmental effects of such projects." We feel each of the alternatives recommended above are feasible alternatives that would substantially less the environmental effect on the SouthShore Specific Plan Area.

Therefore, in addition to providing the requested additional analysis in the DEIR, we urge the State Lands Commission to thereafter adopt one of the three alternatives discussed herein to avoid significant adverse impacts to future land uses within the SouthShore Specific Plan.

We appreciate the opportunity to comment on the revised DEIR for the Cabrillo Port LNG Deepwater Port Project. If you have any questions regarding our comments please do not hesitate to contact us.

Very truly yours,



James E. Pugh
for NOSSAMAN, GUTHNER, KNOX & ELLIOTT, LLP

P405-11
Continued

JEP/jlc

P252

To view the responses to this letter, go to "Index--Read this First" and select "2006 Letters--Form Letter."

April 19, 2006

Dwight Sanders
State lands commission,
100 Howe Avenue
Suite 100 South
Sacramento California 95825-8202

Re: Stop Cabrillo Port LNG

Dear Mr. Sanders,


Please stop Cabrillo port LNG industrial plant from progressing any further in the permit process. California law prohibits industrial intrusion on highly scenic areas. The last remaining wild areas on the Southern California Coast will be permanently despoiled if this industrial plant is installed. In fact over 10 national parks, national recreation areas, state, city and county parks will be despoiled. This would forever impact the quality of life of the areas residents and negatively impact the millions of visitors who come to hike and enjoy the seashore. In addition, federal and state governments own studies show that this project would:

- result in both short term and long term adverse impacts to the coast and it's residents.
- Increase smog levels (tons of pollutants spewing directly upwind from our houses, beaches and hiking trails.
- contain 14 story high pollution spewing industrial towers with lines of support ships which forever will be our new horizon. This towers will be brightly lit at night being a 24 hour eye sore .
- harbor the possibility of a 14 mile wide explosive flash fire due to an accident of terrorist attack.
- be visible from all elevations in malibu from downtown Malibu all the way to Port Hueneme.
- require a "security zone" of 2.3 miles around it. (to protect from terrorism, accidents etc) which is in the same shipping channel where 10,000. container ships and oil tankers use annually.

There are many more negative impacts than the above "official" ones disclosed by the federal and state study.

PLEASE do not allow this to go forward. We, the citizens of Southern California will fight this project until it is derailed. Our money and time can be spent on projects that truly will improve the quality of life in Southern California rather than just provide an opportunity for foreign Companies to sell us gas that they and we do not need.

Sincerely,


Bob Purdy
28843 SEFRIDGE DR
MALIBU, CA 90265